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ILLINOIS REGISTER

Rules of Governmental Agencies

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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. Rulemaking activity consists of proposed or adopted new rules or amendments to or repealers of existing rules, including those by emergency or peremptory action.

The *Register* also contains Executive Orders and Proclamations issued by the Governor, notices of public information required by State statute, and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies. In addition, the *Register* contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current *Register* volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

The *Register* will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of State agencies. The most recent edition of the *Code* along with the *Register* comprise the most current accounting of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1985, ch. 127, pars. 1001 et seq., as amended).

REGISTER PUBLICATION SCHEDULE 1990

Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 4:30 p.m. on:	And before 4:30 p.m. on:	Will be in Issue #:	Published on:
Dec. 19, 1989	Dec. 26, 1989	1	Jan. 5, 1990	June 26, 1990	July 3, 1990	28	July 13, 1990
Dec. 26, 1990	Jan. 2, 1990	2	Jan. 12, 1990	July 3, 1990	July 10, 1990	29	July 20, 1990
Jan. 2, 1990	Jan. 9, 1990	3	Jan. 19, 1990	July 10, 1990	July 17, 1990	30	July 27, 1990
Jan. 9, 1990	Jan. 16, 1990	4	Jan. 26, 1990	July 17, 1990	July 24, 1990	31	Aug. 3, 1990
Jan. 16, 1990	Jan. 23, 1990	5	Feb. 2, 1990	July 24, 1990	July 31, 1990	32	Aug. 10, 1990
Jan. 23, 1990	Jan. 30, 1990	6	Feb. 9, 1990	July 31, 1990	Aug. 7, 1990	33	Aug. 17, 1990
Jan. 30, 1990	Feb. 6, 1990	7	Feb. 16, 1990	Aug. 7, 1990	Aug. 14, 1990	34	Aug. 24, 1990
Feb. 6, 1990	Feb. 13, 1990	8	Feb. 23, 1990	Aug. 14, 1990	Aug. 21, 1990	35	Aug. 31, 1990
Feb. 13, 1990	Feb. 20, 1990	9	Mar. 2, 1990	Aug. 21, 1990	Aug. 28, 1990	36	Sept. 7, 1990
Feb. 20, 1990	Feb. 27, 1990	10	Mar. 9, 1990	Aug. 28, 1990	Sept. 4, 1990	37	Sept. 14, 1990
Feb. 27, 1990	Mar. 6, 1990	11	Mar. 16, 1990	Sept. 4, 1990	Sept. 11, 1990	38	Sept. 21, 1990
Mar. 6, 1990	Mar. 13, 1990	12	Mar. 23, 1990	Sept. 11, 1990	Sept. 18, 1990	39	Sept. 28, 1990
Mar. 13, 1990	Mar. 20, 1990	13	Mar. 30, 1990	Sept. 18, 1990	Sept. 25, 1990	40	Oct. 5, 1990
Mar. 20, 1990	Mar. 27, 1990	14	Apr. 6, 1990	Sept. 25, 1990	Oct. 2, 1990	41	Oct. 12, 1990
Mar. 27, 1990	Apr. 3, 1990	15	Apr. 13, 1990	Oct. 2, 1990	Oct. 9, 1990	42	Oct. 19, 1990
Apr. 3, 1990	Apr. 10, 1990	16	Apr. 20, 1990	Oct. 9, 1990	Oct. 16, 1990	43	Oct. 26, 1990
Apr. 10, 1990	Apr. 17, 1990	17	Apr. 27, 1990	Oct. 16, 1990	Oct. 23, 1990	44	Nov. 2, 1990
Apr. 17, 1990	Apr. 24, 1990	18	May 4, 1990	Oct. 23, 1990	Oct. 30, 1990	45	Nov. 9, 1990
Apr. 24, 1990	May 1, 1990	19	May 11, 1990	Oct. 30, 1990	Nov. 5, 1990	46	Nov. 16, 1990
May 1, 1990	May 8, 1990	20	May 18, 1990	Nov. 5, 1990	Nov. 13, 1990	47	Nov. 26, 1990 (Mon.)
May 8, 1990	May 15, 1990	21	May 25, 1990	Nov. 13, 1990	Nov. 20, 1990	48	Nov. 30, 1990
May 15, 1990	May 22, 1990	22	June 1, 1990	Nov. 20, 1990	Nov. 27, 1990	49	Dec. 7, 1990
May 22, 1990	May 29, 1990	23	June 8, 1990	Nov. 27, 1990	Dec. 4, 1990	50	Dec. 14, 1990
May 29, 1990	June 5, 1990	24	June 15, 1990	Dec. 4, 1990	Dec. 11, 1990	51	Dec. 21, 1990
June 5, 1990	June 12, 1990	25	June 22, 1990	Dec. 11, 1990	Dec. 18, 1990	52	Dec. 28, 1990
June 12, 1990	June 19, 1990	26	June 29, 1990	Dec. 18, 1990	Dec. 24, 1990	1	Jan. 4, 1991
June 19, 1990	June 26, 1990	27	July 6, 1990	Dec. 24, 1990	Dec. 31, 1990	2	Jan. 11, 1991

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

COMMISSIONER OF BANKS AND TRUST COMPANIES

NOTICE OF PROPOSED RULES

1) The Heading of the Part: Corporate Fiduciary Receivership Account

2) Code Citation: 38 Ill. Adm. Code 397

<u>Section Numbers:</u>	<u>Proposed Action:</u>
397.10	New Section
397.20	New Section
397.30	New Section
397.40	New Section
397.50	New Section

4) Statutory Authority: Implementing and authorized by Section 5-10 of the Corporate Fiduciary Act (Ill. Rev. Stat. 1989, ch. 17, par. 1555-10).

5) A Complete Description of the Subjects and Issues Involved: This proposed rule establishes the manner of assessing fees to fund the Corporate Fiduciary Receivership Account.

6) Will this proposed rule replace an emergency rule currently in effect? No.

7) Does this rulemaking contain an automatic repeal date?
Yes ☒ No ☐

8) Does this proposed rule contain incorporations by reference? No.

9) Are there any other proposed amendments pending on this Part? No.

10) Statement of Statewide Policy Objective: The proposed rule does not create a state mandate on units of local government, school districts or community college districts. Only corporate fiduciaries are subject to this proposed rule.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons who desire to comment on this proposed rulemaking may submit their comments in writing no later than 45 days after the publication of this Notice to:

William L. Conaghan or Maria A. O'Donnell
Commissioner of Banks and Trust Companies
310 South Michigan Avenue, Suite 2130
Chicago, Illinois 60604

COMMISSIONER OF BANKS AND TRUST COMPANIES

NOTICE OF PROPOSED RULES

12) Initial Regulatory Flexibility Analysis?

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: The Department of Commerce and Community Affairs has determined that corporate fiduciaries are not small businesses. Therefore, the proposed rule was not submitted to the Business Assistance Office.

B) Types of small businesses affected: Small businesses are not affected by this rule.

C) Reporting, bookkeeping or other procedures required for compliance: N/A

D) Types of professional skills necessary for compliance: N/A

The full text of the Proposed Rule begins on the next page:

COMMISSIONER OF BANKS AND TRUST COMPANIES

COMMISSIONER OF BANKS AND TRUST COMPANIES

NOTICE OF PROPOSED RULES

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: COMMISSIONER OF BANKS AND TRUST COMPANIES

PART 397

CORPORATE FIDUCIARY RECEIVERSHIP ACCOUNT

Section

- 397.10 Purpose
- 397.20 Definitions
- 397.30 Quarterly Fee to Fund the Account
- 397.40 Restoring the Account
- 397.50 Fee Assessment When the Balance in the Account is Between \$306,250 and \$350,000

AUTHORITY: Implementing and authorized by Section 5-10 of the Corporate Fiduciary Act (Ill. Rev. Stat. 1989, ch. 17, par. 1555-10).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

Section 397.10 Purpose

The purpose of this Part is to establish the manner of assessing fees to fund the Corporate Fiduciary Receivership Account in the amount of \$350,000 over a two year period and to replenish the account following any disbursement.

Section 397.20 Definitions

"A" means the total number of corporate fiduciaries.

"Account" means the Corporate Fiduciary Receivership Account.

"B" means the number of examiner days expended in the most recent examination of the Illinois Trust Company that was completed prior to the end of the calendar quarter preceding the quarter for which the fee is being assessed.

"Balance" means the amount in the account, adjusted for any accounts receivable and any accounts payable, as of the last day of the calendar quarter preceding the quarter for which a fee may be assessed.

NOTICE OF PROPOSED RULES

"C" means the total number of examiner days expended in the most recent examinations of all Illinois Trust Companies, calculated as of the last day of the calendar quarter preceding the quarter for which the fee is being assessed.

"Corporate Fiduciary" shall have the meaning ascribed to it in Section 1-5.05 of the Corporate Fiduciary Act (Ill. Rev. Stat. 1989, ch. 17, par. 1551-5.05).

"D" means the amount necessary to raise the balance in the Account to \$350,000.

"Illinois Trust Company" means a corporation incorporated in this State which has been given a certificate of authority to accept and execute trusts by the Commissioner of Banks and Trust Companies.

Section 397.30 Quarterly Fee to Fund the Account

a) Each corporate fiduciary will be assessed a quarterly fee of \$37.50 until the balance of the account is \$350,000.

b) Each Illinois trust company will be assessed an additional quarterly fee until the balance of the account is \$350,000. The additional quarterly fee will be based on the following formula:
Additional quarterly fee to be paid by each Illinois trust company = $(350,000 - 300A) \times \frac{B}{C}$

Section 397.40 Restoring the Account

If a receivership of a corporate fiduciary requires expenditures from the Account, assessments under Section 397.30 will be reinstituted until the balance in the Account is restored to \$350,000.

Section 397.50 Fee Assessment When the Balance in the Account is Between \$306,250 and \$350,000

a) Notwithstanding any other Section of this Part, if the balance of the Account is between \$306,250 and \$350,000 a fee will be assessed on all corporate fiduciaries on the basis of the following formula:
Fee to be paid by each corporate fiduciary = $\frac{300D}{350,000}$

COMMISSIONER OF BANKS AND TRUST COMPANIES

NOTICE OF PROPOSED RULES

- b) Notwithstanding any other Section of this Part, if the balance of the Account is between \$306,250 and \$350,000 each Illinois trust company will be assessed an additional fee. The additional fee will be determined on the basis of the following formula:
Additional fee to be paid by each Illinois trust company = $(350,000 - 300A) \times \frac{B}{C} \times D$
350,000

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) The Heading of the Part: Pay Plan
- 2) The Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: Proposed Action:
310. Appendix C Amended
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 127, par. 63b108a(2)
- 5) A Complete Description of the Subjects and Issues Involved:

In Section 310. Appendix C, Physician Administrator Rates and Medical Facilities Administrator Rates Schedule, the Medical Facilities Administrator III's maximum salary is being upgraded from \$10,222 to \$10,462 (monthly).

The titles of Medical Facilities Administrator IV and V are being added to accommodate a position of the head of the clinical and medical functions in the Department of Mental Health and Developmental Disabilities. The incumbent of this position will be serving in the higher level title when the Director of the Department of Mental Health and Developmental Disabilities does not possess a doctorate degree in psychiatry. The monthly compensation for the Physician Administrator IV and V should be established at \$7,789 - 10,584, and \$7,914 - 10,708, respectively. The above inclusion allows the agency to better meet the directives of the Illinois Revised Statutes and should become effective August 16, 1990.

- 6) Will this proposed rule replace an emergency rule currently in effect?
Yes.
- 7) Does this rulemaking contain an automatic repeal date? Yes X No
If "yes", please specify date:
- 8) Do these proposed amendments contain any incorporations by reference?
No.
- 9) Are there any proposed amendments pending to this part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
310.230	Amended	14 Ill. Reg. 7675 (May 25, 1990)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF PROPOSED AMENDMENT

C) Reporting, bookkeeping or other procedures required for compliance:

None.

D) Types of professional skills necessary for compliance:

None.

The full text of the proposed amendment is identical to the emergency amendment published on page 15572 of the Illinois Register.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF PROPOSED AMENDMENT

310.280	Amended	14 Ill. Reg. 7675 (May 25, 1990)
310. App. A, Table A	Amended	14 Ill. Reg. 7675 (May 25, 1990)
310.280	Amended	14 Ill. Reg. 10189 (June 29, 1990)
310.290	Amended	14 Ill. Reg. 10189 (June 29, 1990)
310. App. A, Table I	Amended	14 Ill. Reg. 10189 (June 29, 1990)
310. App. A, Table O	Amended	14 Ill. Reg. 10189 (June 29, 1990)
310. App. A, Table P	Amended	14 Ill. Reg. 10189 (June 29, 1990)

10) Statement of Statewide Objectives:

These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706

Telephone: (217) 782-5601

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:

The Department of Central Management Services' Pay Plan does not affect private businesses. Amendments made to the Pay Plan are not subject to any guidelines or regulations of the Department of Commerce and Community Affairs.

B) Types of small businesses affected:

None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Residential Energy Assistance Partnership Program
- 2) Code Citation: 47 Ill. Adm. Code 100
- | <u>Section Numbers:</u> | <u>Proposed Action:</u> |
|-------------------------|-------------------------|
| 100.30 | Amendment |
| 100.106 | Amendment |
| 100.111 | Amendment |
| 100.113 | Amendment |
| 100.117 | Repeal |
| 100.120 | Amendment |
| 100.Appendix E | Amendment |
| 100.Appendix F | Amendment |

4) Statutory Authority: Implementing the Energy Assistance Act of 1989 (Ill. Rev. Stat. 1989, ch. 111 2/3, pars. 1401 et seq.) and authorized by Section 4 of the Energy Assistance Act of 1989 (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 1404) and Section 46.20 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 46.20).

5) A Complete Description of the Subjects and Issues Involved: These rules are being amended to facilitate minor program changes for the Residential Energy Assistance Partnership Program (REAPP) in its second year of operation. Many of the changes are the result of recommendations made by the Energy Assistance Advisory Committee in their annual report to the Governor and General Assembly. Amendments to Section 100.30 serve to provide clarification and minor revisions to the definitions of: "Customer", "Handicapped Person", "Pre-Program Arrearages", and "Public Utility". In Section 100.106, a revision has been made in the determination of Local Administering Agency's administrative allocations for Illinois Department of Public Aid (IDPA) funding. Revisions to Section 100.110 have been made to simplify the program for small (not regulated by the Illinois Commerce Commission (ICC)) home energy vendors by eliminating excessive bookkeeping and billing to the Department. A new program option (inserted as Option 6) has been added for applicants not receiving Aid to Families with Dependent Children (AFDC) that purchase energy from these vendors. Revisions have also been made to Emergency Assistance-Option 8 (formerly Option 7) to provide a maximum ceiling for benefit levels. The timelines for recertification under Option 5 have also been revised. Section 100.111 contains revisions in program structure and the payment process for non-ICC regulated home energy vendors that participate in REAPP Status Category 1-AFDC. Section 100.113 contains revisions in program structure and the payment process for non-ICC regulated home energy vendors that participate in REAPP Status Category 2-Non-AFDC (Block Grant). A priority application period is being established for elderly and disabled applicants. Recertification language has also been revised for applicants under Option 5. Section

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

100.117 is being repealed. This section described the supplemental assistance payment provisions for the Illinois Residential Affordable Payment Program which is no longer applicable. In Section 100.120, revisions have been made describing the responsibility of the customer of record. The benefit amounts provided in Sections 100.Appendix E and F have been revised to reflect payment amounts for the current program year.

- 6) Will these proposed amendments replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Do these proposed amendments contain incorporations by reference? No.
- 9) Are there any proposed amendments pending on this Part? No.

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (Ill. Rev. Stat. 1989, ch. 85, par. 2203).

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after this edition of the Illinois Register to the following:

Mr. John D. Taylor, Deputy Director
Department of Commerce and Community Affairs
Bureau of Program Administration
620 East Adams Street, 5th floor
Springfield, Illinois 62701
(217) 782-6136

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: September 10, 1990.

B) Types of small businesses and small municipalities affected: There are 36 local administering agencies (LAAs) affected by this rulemaking. All of these LAAs are not-for-profits and are therefore considered to be small businesses in accordance with the Illinois Administrative Procedure Act. Ten of these LAAs are municipalities, four of which are small municipalities.

C) Reporting, bookkeeping or other procedures required for compliance: All LAAs must comply with the provisions of this rulemaking.

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

- D) Types of professional skills necessary for compliance: Current LAA staff possess the necessary skills to comply with this rulemaking.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED AMENDMENTS

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER I: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 100

RESIDENTIAL ENERGY ASSISTANCE PARTNERSHIP PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	Legislative Base
100.10	Purpose and Scope
100.20	Definitions
100.30	Local Administering Agency Designation
100.40	Local Administering Agency Application for Funding
100.45	Grant Termination
100.50	Eligible Grantees (Recodified)
100.60	Administrative Requirements
100.70	Nondiscrimination
100.80	Dispute Procedures
100.85	Complaint Process
100.90	Incorporation by Reference
100.100	

SUBPART B: ENERGY ASSISTANCE

Section	Energy Assistance Program
100.103	Allocation of Block Grant Funds
100.105	Allocation of Illinois Department of Public Aid Funds
100.106	Assistance Available
100.110	Status Category 1 Procedures (Applicants on Aid to Families with Dependent Children (AFDC) Assistance)
100.111	Status Category 2 Procedures (Applicants not on AFDC Assistance - Block Grant Funding)
110.113	Cooling Assistance
100.115	Supplemental Assistance (Repealed)
100.117	Determination of Household Eligibility
100.120	Grant Application Requirements (Repealed)
100.130	Eligible Grantees (Repealed)
100.140	

SUBPART C: WEATHERIZATION

Section	Definitions (Repealed)
100.210	Allocation of Funds
100.220	Local Administering Agency Selection (Repealed)
100.230	Local Administering Agency Application (Repealed)
100.240	Minimum Program Requirements
100.250	Allowable Costs
100.260	Cost Restrictions
100.270	

NOTICE OF PROPOSED AMENDMENTS

100.280 Standards and Techniques for Weatherization
100.290 Eligible Dwelling Units
100.Appendix A FY'88 IHEAP Income Level Chart/Cooling (Repealed)
100.Appendix B FY'88 IHEAP Assistance Level Chart/Cooling Payment Matrix (Repealed)
100.Appendix C Medical Certification
100.Appendix D Assistance Level Chart Map
100.Appendix E REAPP Direct Payment Matrix
100.Appendix F 90% of the Adjusted Average Winter Energy Cost (Monthly Allowable Payment)

AUTHORITY: Implementing Section 4.2 of the Energy Assistance Act (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 1304.2) and the Energy Assistance Act of 1989 (Ill. Rev. Stat. 1989, ch. 111 2/3, pars. 1401 et seq) and authorized by Section 4 of the Energy Assistance Act of 1989 (Ill. Rev. Stat. 1989, ch. 111 2/3, par. 1404) and Section 46.20 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par 46.20).

SOURCE: Adopted and codified at 7 Ill. Reg. 2956, effective March 9, 1983; amended at 8 Ill. Reg. 8184, effective May 31, 1984; amended at 8 Ill. Reg. 16004, effective August 27, 1984; amended at 8 Ill. Reg. 20669, effective October 6, 1984; amended at 9 Ill. Reg. 10710, effective July 1, 1985; amended at 9 Ill. Reg. 18134, effective November 12, 1985; amended at 10 Ill. Reg. 8684, effective May 12, 1986; amended at 10 Ill. Reg. 21064, effective December 9, 1986; amended at 11 Ill. Reg. 682, effective December 18, 1986; recodified at 11 Ill. Reg. 4631; amended at 12 Ill. Reg. 757, effective December 23, 1987; amended at 12 Ill. Reg. 14639, effective September 6, 1988; amended at 12 Ill. Reg. 15530, effective September 19, 1988; amended at 13 Ill. Reg. 10827, effective June 27, 1989; amended at 13 Ill. Reg. 13568, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 17870, effective November 1, 1989, for a maximum of 150 days; emergency expired March 31, 1990; amended at 14 Ill. Reg. 13440, effective August 8, 1990; amended at 14 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 100.30 Definitions

"Act": The Energy Assistance Act of 1989 (Ill. Rev. Stat. 1989, ch. 111 2/3, pars. 1401 et seq.).

"Customer of record": Any person who is receiving home energy services from a home energy vendor and has agreed to pay for those services, or did receive home energy services, during the program year from a home energy vendor and has not changed the home energy vendor for that type of home energy service.

"Default": Failure to make a payment by the due date established in accordance with 83 Ill. Adm. Code 280.90 or the company's

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normal credit collection practices. For the purposes of Sections 100.111(a)(7)(B) and 100.113(a)(9)(8)(B) of this Part, a customer has not defaulted unless they do not comply with the written notification which is mailed after the due date stated in 83 Ill. Adm. Code 280.90.

"Department": The Illinois Department of Commerce and Community Affairs.

"Disabled Person": A person who is and who is expected to continue indefinitely to be subject to a physical, developmental, visual, hearing or mental disability, as defined in Section 4A of the Identification Card Act (Ill. Rev. Stat. 1989, ch. 124, par. 24A).

"Dwelling Unit": A house, including a stationary mobile home, an apartment, or a room or group of rooms occupied as separate, independent living quarters.

"Elderly Person": A person who is 60 years of age or older.

"Energy Crisis Intervention": Weather-related and supply shortage emergencies.

"Exxon": The Exxon Oil Overcharge Settlement Trust Fund administered by the U.S. Department of Energy (DOE) in accordance with 10 CFR 440 (1987).

"Grant Agreement": The contractual agreement between the Department and Local Administering Agency, which includes the scope of work to be provided, the budget, and all terms and conditions of the contract.

"Handicapped Person": --A person who is and who is expected to continue indefinitely to be subject to a physical, developmental, visual, hearing or mental disability, as defined in Section 4A of the Identification Card Act (Ill. Rev. Stat. 1989, ch. 124, par. 24A).

"HHS": United States Department of Health and Human Services.

"Home Energy": A source of heating, electrical service, or cooling in residential dwellings.

"Home Energy Vendor": Any sole proprietorship, partnership, joint venture, corporation, company or other established business which provides primary and/or secondary energy, including fuel, to residential dwellings and has elected to participate in the REAPP.

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"Household": All individuals who occupy a dwelling unit. For the purpose of applicants receiving assistance under Section 100.110(b)(1) of this Part, a household shall be defined as those individuals whose names are listed as recipient(s) on the Public Aid Medical Eligibility Card issued by the Illinois Department of Public Aid (IDPA).

"Household Income": Gross income received by all members of the household who are residing in the household at the time of application. Under the Energy Assistance Act of 1989, household income will be calculated for the past 30 days. Households applying for Weatherization Assistance who have not been approved to receive energy assistance under the Act, will have their income calculated for the past 12 months, in accordance with 10 CFR 440 (1987). FOR PURPOSES OF SECTION 100.110(c)(2) OF THIS PART, "MONTHLY HOUSEHOLD INCOME" MEANS AN AMOUNT NO LESS THAN AN AMOUNT PRESCRIBED IN RULES OF THE DEPARTMENT OF PUBLIC AID AS THE MAXIMUM PAYMENT LEVEL UNDER GENERAL ASSISTANCE FOR THE APPLICABLE HOUSEHOLD SIZE IN THE APPLICABLE COUNTY, BUT IN NO INSTANCE SHALL MEAN LESS THAN \$144 PER MONTH (Section (6)(d)(2)(vi) of the Act). Income does not include the following:

Payments for vocational rehabilitation transportation and maintenance;

Reimbursement for medical expenses;

Payments made to others on the household's behalf provided that such payments were not directed by the household (i.e., bills paid or purchases made by others);

Loans (including student loans);

Scholarships, subsistence amounts or student grants;

Assets drawn down as withdrawals from a bank;

Sale of property;

Sale of house or car;

Tax refunds;

Gifts;

One-time insurance payments or compensation for injury;

Non-cash income;

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One-time payments (e.g., death-related benefits, Circuit Breaker Benefits);

Foster-grandparents and Senior Companions stipends;

Foster-parent reimbursement;

Food Stamps;

Job Training Partnership Act (JTPA) benefits; and

Allowances, earnings and payments to individuals participating in programs under this Act.

"Landlord": A person that receives payment for the rental of his/her dwelling unit.

"Local Administering Agency (LAA)": A community action agency or other community-based organization or unit of general purpose local government or public agency which is authorized, in accordance with Section 100.40, to administer low-income home energy assistance program funds received from the Department.

"Low Income Home Energy Assistance Act of 1981": The Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, August 13, 1981), Title XXVI - Low Income Home Energy Assistance.

"Multi-Unit Building": A structure containing two or more dwelling units.

"Owner Occupied Building": A building in which the owner is a permanent resident in the building.

"Pre-Program Arrearages": The combined amount owed by a customer to that customer's home energy vendor(s) at the later of November 1, 1989, or the date upon which the customer first becomes a participant in either Option 2 or Option 5, or Option 6 of Section 100.110(b).

"Primary Source of Heat": The energy or fuel type which is the heat source for the central heating system of the residence, or if the residence is not centrally heated, the energy or fuel type which constitutes the principal source of space heating.

"Program Year": The period in time starting November 1 and ending October 31 in the following year.

"Public Utility": An entity which is defined as a public utility under Section 3-105 of the Public Utilities Act (Ill. Rev. Stat.

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1989, ch. 111 2/3, par. 3-105) and is subject to regulation by the Illinois Commerce Commission (ICC).

"Rental Unit": A dwelling unit occupied by a person who pays rent for the use of the dwelling unit.

"Secondary Energy Source": Energy or fuel used for other than the primary source of heat.

"Separate Independent Living Quarters": Living quarters in which the household members do not live and eat with any other persons in the structure and which have:

either direct access from the outside of the building or through a common hall and complete kitchen facilities for the exclusive use of the occupants.

"Shortfall": Represents the difference between the billing for energy usage for any given billing period after a customer qualifies for participation in Option 5 and the customer's required percentage of income payment in accordance with Section 100.110(c)(2).

"Single-Family Dwelling Unit": A structure containing no more than one dwelling unit.

"State": The State of Illinois.

"Subgrantee": A Local Administering Agency managing an energy assistance or weatherization project which receives a grant of funds awarded under this Part from the state.

"Unit of General Purpose Local Government": Any city, county, town, village or township.

"Weatherization Materials":

Caulking and weatherstripping of doors and windows;

Furnace efficiency modifications, including, but not limited to:

replacement burners, furnaces and permanently installed space heaters (including wood/coal burning stoves), or boilers or any combination thereof;

devices for minimizing energy loss through heating

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systems, chimney or venting devices;

products to improve the efficient circulation of heated water or air throughout the dwelling unit (e.g., fan systems, piping, and duct work); and

electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

Clock thermostats;

Ceiling, attic, wall, floor, and duct insulation

Water heater insulation;

Storm windows and doors, multi-glazed windows and doors, heat-absorbing or heat-reflective window and door materials; and

The following insulating or energy conserving devices or technologies:

Skirting;

Items to improve attic ventilation;

Vapor barriers;

Materials used as a patch to reduce infiltration through the building envelope;

Water flow controllers;

Movable insulation systems for windows;

Material to construct vestibules;

Pipe and boiler insulation;

Heat exchangers;

Thermostat control systems;

Replacement windows and doors;

Materials used for water heater modifications which will result in improved energy efficiency;

Hot water heat pumps;

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based-on-estimates-from-the-Illinois-Department-of-Public
Aid)-in-the-LAA's-service-area--A-reimbursement-fee-shall
be-paid-to-the-LAA-for-each-AFDC-application-that-is-taken-

- b) Payments to the eligible AFDC households under the AFDC component shall be made in accordance with Section 100.111(c) of this Part.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 100.110 Assistance Available

a) ASSISTANCE CATEGORIES

All applicants eligible for assistance under REAPP must receive assistance under one of the following status categories:

- 1) STATUS CATEGORY 1: as a recipient of public assistance pursuant to Section 4.1 of the Illinois Public Aid Code, in which case the applicant may obtain assistance under options 1, 2, 3, 7 or 8 of subsection (b) and subject to the "Status Category 1 Procedures (Applicants on AFDC)" of Section 100.111, and other applicable provisions of this Part.

- 2) STATUS CATEGORY 2: as a non-recipient of public assistance pursuant to Section 4.1 of the Illinois Public Aid Code, in which case the applicant may obtain assistance under options 4, 5, 6, 7 or 8 of subsection (b) and subject to the "Status Category 2 Procedures (Applicants not on AFDC Assistance - Block Grant Funding)" of Section 100.113, and other applicable provisions of this Part.

b) ASSISTANCE OPTIONS

- 1) AFDC Recipients

An eligible applicant who is a recipient of public assistance pursuant to Section 4-1 of the Illinois Public Aid Code may receive energy assistance under one of the following options:

A) OPTION 1

- i) IF the applicant: is not a customer of record of a home energy vendor for winter energy services; and, is not an applicant for winter energy services from a home energy vendor; and, has housing rental expenses greater than 30% of his/her household income,

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Waste heat recovery devices;

Materials used for heating and cooling systems tune-ups, repairs, and modifications which will result in improved energy efficiency; and

Materials used for boiler tune-ups, repairs, and modifications which will result in improved energy efficiency.

"Weatherization Project": A project conducted in a designated geographic area which undertakes the weatherization of dwelling units that are energy inefficient.

"WINTER": THE PERIOD FROM NOVEMBER 1 OF ANY YEAR THROUGH APRIL 30 OF THE FOLLOWING YEAR (Section (3)(d) of the Act).

"Winter Energy Services": Home energy provided during the six-month period of November through April of the following year.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 100.106 Allocation of Illinois Department of Public Aid Funds

- a) The Department shall allocate Illinois Department of Public Aid funds to designated LAAs to operate the AFDC component of REAPP in accordance with Sections 100.110(b)(1) and 100.111 of this Part. The Department shall determine LAA allocations for administrative and program related costs as follows:-

- i) The--Department--shall--determine--the--administrative allocation--for--the--AFDC--component--of--REAPP. This determination shall be based on the percentage of AFDC workload--(estimated--number--of--applications--staff processing-and-support--data-entry-for-home-energy-billing, etc.)-compared-to-the-overall-workload-of-the-Block-Grant component-of-REAPP--When-the-AFDC-workload-percentage-has been--determined,--it--will--be--multiplied--against--the administrative allocation of the Block-Grant component. For example, if the Department determines that the AFDC component workload represents an additional 20% of administrative effort compared to the Block-Grant component, then the LAAs shall receive an administrative allocation of Public-Aid-funds--equal--to--20%--of--the administrative funding of the Block-Grant component of REAPP.

- 2) Funds for program-related costs shall be allocated on the basis of the number of eligible AFDC households (per county

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- ii) THEN the applicant shall receive one direct cash payment as prescribed in Section 100.Appendix E per program year,
- iii) SUBJECT TO the following conditions and other applicable requirements of this Part the applicant must: provide verification of rental expenses, and attest that he/she is not a customer of record or applicant of for winter energy services from a home energy vendor.

B) OPTION 2

- i) IF the applicant: is the customer of record of a home energy vendor for winter energy services; or, is an applicant for winter energy services from a home energy vendor; and, is listed as a recipient on the Illinois Department of Public Aid (IDPA) Medical Eligibility Card; and elects to participate in the 90% average program,

- ii) THEN the applicant shall: have the account or accounts of the home energy vendor(s) serving the applicant credited in each winter month in the amount prescribed in Section 100.Appendix F. In no case may the amount credited be greater than the actual amount of the applicant's bills for winter energy services; be entitled to have his/her pre-program arrearages for home energy reduced as provided in subsection (c)(3), if the applicant's pre-program arrearages (defined in Section 100.30) are \$500 or more, at the time of completed application,

- iii) SUBJECT TO the following conditions and other applicable requirements of this Part, the applicant must: comply with the requirements of the 90% average program as stated in subsection (c)(1); make all reasonable efforts to apply to any other appropriate source of public energy assistance; sign a waiver permitting the Department to receive income information from any public or private agency providing income or energy assistance and from any employer whether public or private; and when moving from one residence to another, notify the old and new home energy vendor(s) and the LAA of the change of address and of the fact of their

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participation in the program.

C) OPTION 3

- i) IF the applicant: is a customer of record of a home energy vendor for winter energy services; or, is an applicant for winter energy services from a home energy vendor; and, is named as a recipient on the Illinois Department of Public Aid Medical Eligibility Card; and, has received a notice of disconnection; or, has had his/her utilities disconnected by action of the home energy vendor; and, has declined to participate in the 90% average program,

- ii) THEN the applicant shall: receive a direct energy assistance payment for each winter month in the amount prescribed in Section 100.Appendix F. In no case, however, may the payments during the winter be greater than the actual amount of the bills for winter energy services,

- iii) SUBJECT TO the following conditions and other applicable requirements of this Part, the applicant must: except for the first payment under this option, provide proof (as a condition precedent to any further payments) that an amount equal to, or greater than the last payment received under this option has been paid to the home energy vendor(s) and applied to the applicant's account.

2) Non-AFDC Recipients

An eligible applicant who is not a recipient of public assistance pursuant to Section 4-1 of the Illinois Public Aid Code may receive energy assistance under one of the following options:

A) OPTION 4

- i) IF the applicant: is not a customer of record of a home energy vendor for winter energy services; and, is not an applicant for winter energy services from a home energy vendor; and, has housing rental expenses greater than 30% of his/her household income,

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i) If the applicant: is the customer of record of a home energy vendor not regulated by the ICC for winter energy services; or, is an applicant for winter energy services from a home energy vendor not regulated by the ICC; and elects to participate in the 90% average program,

ii) THEN the applicant shall: have the account or accounts of the home energy vendor(s) serving the applicant credited for the winter months in an amount prescribed in Section 100.Appendix E. In no case may the amount credited be greater than the actual amount of the applicant's bills for winter energy services; be entitled to have his/her pre-program arrearages for home energy reduced as provided in subsection (c)(3), if the applicant's pre-program arrearages (defined in Section 100.30) are \$500 or more, at the time of completed application.

iii) SUBJECT TO the following conditions and other applicable requirements of this Part, the applicant must: comply with the requirements of the 90% average program as stated in subsection (c)(1); make all reasonable efforts to apply to any other appropriate source of public energy assistance; sign a waiver permitting the Department to receive income information from any public or private agency providing income or energy assistance and from any employer whether public or private; and when moving from one residence to another, notify the old and new home energy vendor(s) and the LAA of the change of address and of the fact of their participation in the program.

D) OPTION 6 Z

i) IF the applicant: has-a-household-member-who is the a customer of record of a home energy vendor for winter energy services; or, has a household member who is an applicant for winter energy services from a home energy vendor; and, elects not to participate in the 12% program,

ii) THEN a one-time payment will be made to the home energy vendor(s) per program year on behalf of the applicant in the amount prescribed by Section 100.Appendix E.

C) Option 6

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ii) THEN the applicant shall receive one direct cash payment as prescribed in Section 100.Appendix E per program year,

iii) SUBJECT TO the following conditions and other applicable requirements of this Part, the applicant must provide verification of rental expenses, and attest that he/she is not a customer or applicant for winter energy services from a home energy vendor.

B) OPTION 5

i) IF the applicant: has-a-household-member-who is the a customer of record of a home-energy vendor public utility for winter energy services; or has-a-household-member-who is an applicant for winter energy services of a public utility; and elects to participate in the 12% program,

ii) THEN the applicant shall: have paid to the home energy-vendor(s) public utility(ies) providing winter energy service an amount sufficient to cover the applicant's Shortfall on his/her winter month bills; be entitled to have his/her pre-program arrearages for home energy reduced as provided in subsection (c)(3), if the applicant's pre-program arrearages (defined in Section 100.30) are \$500 or more, at the time of completed application,

iii) SUBJECT TO the following conditions and other applicable requirements of this Part, the applicant must: comply with the requirements of the 12% program (as stated in subsection (c)(2)); and, make all reasonable efforts to apply to any other appropriate source of public energy assistance; and, sign a waiver permitting the Department to receive income information from any public or private agency providing income or energy assistance and from any employer, whether public or private; and when moving from one residence to another, notify the old and new home energy vendor(s) and the LAA of the change of address and of the fact of their participation in the program.

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3) All Eligible Applicants

An eligible applicant may receive energy assistance under any one or more of the following options:

A) OPTION 7 & (EMERGENCY ASSISTANCE):

Ai) IF the applicant: is a customer of record of a home energy vendor for winter energy services, and, was receiving home energy vendor services but is now disconnected,

Bii) THEN the applicant shall receive emergency assistance consisting of an amount up to the minimum amount needed to reestablish the applicant's winter energy service, but not more than one-fifth of the minimum total amount owed by needed to reconnect and/or establish service to the applicant,

Ciii) SUBJECT TO the emergency assistance program requirements (as provided in subsection(c)(4)).

B) OPTION-8

i) IF the applicant: is not receiving energy assistance under any of the options i through 6 of this Section; and is a customer or has a household member who is a customer of a home energy vendor for winter energy services for the household and the home energy vendor is not subject to regulation by the Illinois Commerce Commission;

ii) THEN solely for the purpose of determining what benefit option(s) are available to the applicant, the applicant shall be treated as if his/her home energy vendor was regulated by the Illinois Commerce Commission; and receive assistance under the appropriate option identified through application of the foregoing treatment;

iii) SUBJECT TO the requirement that even though the applicant's home energy vendor is treated as being subject to regulation by the Illinois Commerce Commission for the purpose of establishing which benefit option(s) are appropriate for the applicant, the benefits and administration of the benefit received by the

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applicant shall be in accordance with procedures applicable to a home energy vendor who is not regulated by the Illinois Commerce Commission:

c) EXPLANATION OF BENEFITS

1) 90% AVERAGE PROGRAM

An applicant who elects to participate in the 90% average program must:

A) pay during the winter months the difference between the actual home energy bill(s) for services provided during each month, and the 90% adjusted average winter energy cost detailed in Section 100. Appendix F that will be paid by the Department;

B) pay his/her full home energy bill during the non-winter months;

C) pay \$5 per month year round toward his/her arrearages until the arrearage balance is zero;

D) pay during the winter months one-sixth of any outstanding deposit requested at the time of application;

2) 12% PROGRAM

An applicant who elects to participate in the 12% program must:

A) pay during the winter months, the appropriate percentage of monthly household income under subsections (i) and (ii) through (iv) below, and in addition, the amounts determined under subsections (c)(2)(A)(v), (vi) (iii), (iv) and (v) (vii) below:

i) 12% of the monthly household income to the home energy vendor public utility which provides the customer's primary source of heat and secondary home energy service; or

ii) 8% of the monthly household income to the home energy vendor public utility which provides the customer's primary source of heat and/or 4% of the monthly household income to the home energy vendor public utility which provides the

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- ii) the current home energy bill or bills; and
- iii) a total amount of five dollars (\$5) each month of the calendar year to be applied against any outstanding pre-program arrearages until the time that such arrearages are retired to a balance of zero (\$0); and

C) Provide proof of eligibility annually between October 1 and December 31 after beginning participation in the program pursuant to the requirements of Section 100.113(a)(9) of this Part.

3) PRE-PROGRAM ARREARAGE REDUCTION

The home energy vendor(s) of applicants who are entitled to pre-program arrearage reduction (subsection (b)(1)(B), Option 2 and subsection (b)(2)(B), Option 5, and Option 6) shall, each program year, be paid by the Department an amount equal to 1/5 of the applicant's pre-program arrearages, less \$60. Payment for pre-program arrearages shall be credited by the home energy vendor receiving the payments to the account of the applicant where the arrearages are posted. The home energy vendor will notify the Department of the applicant's pre-program arrearage at the same time as the home energy vendor submits its first request for payment to the Department.

4) EMERGENCY ASSISTANCE PROGRAM REQUIREMENTS

A) Assistance under Option 7 & 8 will be limited to the provision of energy assistance funds designed to help applicants obtain a continuous supply of home energy and expedited processing. Emergency Assistance will be provided only after an applicant has actually been disconnected. Assistance under Option 8 will in no case be used to compensate for any REAPP obligations that the applicant had previously agreed to pay after November 1, 1990. Emergency Service assistance will be provided within 48 hours from the date the client application is complete (all client documentation has been submitted); 18 hours if the energy crisis is life threatening.

B) An emergency payment will not be made on behalf of an applicant unless the household makes a good-faith effort at maintaining service at the time of reconnection. A good-faith effort is defined as the

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secondary home energy service; or and in addition;

iii) 8% of the monthly household income to the home energy vendor that provides the primary source of heat when the home energy vendor which provides the secondary home energy is not regulated by the Illinois Commerce Commission; or

iv) 4% of the monthly household income to the home energy vendor that provides the secondary home energy service when the home energy vendor which provides the primary source of heat is not regulated by the Illinois Commerce Commission; and in addition;

iiiv) during the winter months one-sixth of any outstanding deposit requested at the time of application; and

iiivii) a total amount of five dollars (\$5) each month of the calendar year to be applied against any outstanding pre-program arrearages until the time that such arrearages are retired to a balance of zero (\$0); and

viiv) beginning November 1, 1991, applicants participating in Option 5 of subsection (b), shall pay for all energy usage above typical residential usage, adjusted for weather, unless the applicant has a medical excuse as certified to the home energy vendor by a licensed physician or local Board of Health. The Department shall promulgate standards to be used in calculating typical residential usage pursuant to the requirements of this subsection.

B) Pay monthly during the period from May 1 through October 31, the greater of the amounts required by subsections (c)(2)(B)(i) and (ii) below; and in addition, the amount required by subsection (c)(2)(B)(iii) below:

- i) the appropriate percentage of monthly household income in the manner specified in subsections (c)(2)(A)(i) through (iv) and (ii); or

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applicant making payment to the household's home energy vendor(s) of not less than twelve percent of the applicant household income during the previous 90-day period. ~~the twelve percent also includes payments made to the electric home energy vendor during the previous 90 days.~~ Prior heating assistance payments received by the home energy vendor under REAPP will not be counted as a contribution to the good-faith effort. An applicant who has failed to make a good-faith effort will be required to provide an amount not to exceed twelve percent of the applicant household income for the previous 90-day period toward the amount needed for reconnection at the time of reconnection.

- C) The amount of emergency assistance will be an amount up to the minimum amount needed to reestablish the applicant. In no case will the amount of emergency energy assistance exceed ~~one-fifth of~~ the total amount owed by the applicant. The applicant may only receive assistance under Option 8 one time for the primary home energy vendor and/or one time for the secondary home energy vendor during the program year. The maximum total benefit (for primary and/or secondary home energy vendors) under Option 8 will in no case exceed \$750.

- D) In order to carry out this option, the Department will utilize delegate agencies and/or LAAs to provide assistance.

d) Verification of Rental Expenses

Rental expenses may be verified by documentation in the form of: lease/rental agreements, current rent receipt(s), verification letters from the applicant's landlord or authorized property manager.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 100.111 Status Category 1 Procedures (Applicants on Aid to Families with Dependent Children (AFDC) Assistance)

a) Application and Enrollment

- 1) Applications for assistance under this Section shall be submitted to and processed on a full-time basis by the LAAs between November 1 and April 30--~~during the remainder of the year such applications will be processed by the LAA at~~

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~~least two days per week, subject to State appropriations. The Department may choose to automatically recertify eligibility and enroll applicants from the prior year's program into the current program if there have been no changes in the applicant's status such as IDPA eligibility, household size, change of residence, etc.~~

- 2) The applicant household is eligible to receive ~~monthly~~ the full benefits (as described in Section 100.110 Appendix F) for the winter period for ~~each winter month that~~ if they received AFDC cash assistance from IDPA during the winter. To apply for assistance, the applicant must submit a completed IDPA application form "Request for REAPP Payment" to the LAA. The LAAs shall either approve or disapprove a completed application within 30 days of its receipt and, in the event of approval, shall within the same 30 days notify the applicant, local IDPA office, and the home energy vendor in writing of the applicant's eligibility. If the application is incomplete at the time of its receipt, the LAA shall notify the applicant in writing at the time of its receipt of the application, of all the information required from the applicant to complete the application. The applicant shall submit the additional information necessary to complete the application within 15 days of the date of the notification letter. If the LAA disapproves an application, it shall within 30 days of receipt of the completed application notify the applicant in writing of such disapproval and reasons for disapproval and such notification must also apprise the applicant of the dispute resolution procedures set forth in 89 Ill. Adm. Code 102.80. If within 30 days of receipt of a completed application, the LAA does not send notice either approving or disapproving an application the applicant shall be permitted to pursue the dispute resolution procedure set forth in 89 Ill. Adm. Code 102.80 or to submit a new application.

- 3) When the home energy vendor receives written notice of a customer's eligibility for assistance under Option 2 (as described in Section 100.110(b)(1)(B)), the home energy vendor shall place the customer on the option within 30 days. During that period, the home energy vendor shall not disconnect the customer for nonpayment. If a customer's service is disconnected during that period, service shall be restored without penalty as soon as is practicable, and in no event later than as provided in 83 Ill. Adm. Code 280.130(f).

- 4) A home energy vendor may refuse to accept the notice of

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eligibility referred to in subsection (a)(3) above if it pertains to a person who is not a the customer of record, if it contains an incorrect account number, or if the customer has failed to sign the Department's "Residential Energy Assistance Partnership Program" agreement form which lists the applicant's responsibilities as detailed in Section 100.110(b)(1)(B)(iii). If the home energy vendor does not accept the notice of an applicant's eligibility, the home energy vendor must notify the applicant, the Department, and the LAA in writing within 14 days of the vendor's receipt of the notice that the applicant's enrollment was rejected, the reason for the rejection and what the applicant must do prior to the home energy vendor accepting the enrollment. The notification must also apprise the applicant of the availability of the dispute resolution procedures listed in Section 100.85 of this Part. The home energy vendor's notice must give the applicant 14 days from the postmark date of the notification to eliminate the reason for rejection. During the 14-day period following the postmark date, the home energy vendor shall not disconnect a customer for non-payment.

5) Each home energy vendor shall inform all residential customers by October 1, of each year of the availability of the program set forth in this Subpart and the general qualifications for assistance under Option 2.

6) All written notices of discontinuance issued to residential customers pursuant to 83 Ill. Adm. Code 280 or the company's normal credit collection practices shall include information regarding the availability of assistance provided by this Part and the general qualifications for assistance under Option 2.

7) Default Provisions

A) A customer who defaults on payment under Option 2 may be removed from the option by the customer's home energy vendor(s). Unless the customer is disconnected under subsection (a)(7)(B), the customer will still be eligible to receive benefits as described in this Section. The customer shall be reinstated by paying all amounts due the customer's home energy vendor(s), except for pre-program arrearages. For the period during which the customer was removed from the option, the customer shall receive no benefits of the option. A customer shall only be reinstated pursuant to this subsection two

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times in any program year.

B) A customer who defaults on payment under Option 2 may be disconnected by the customer's home energy vendor(s) under 83 Ill. Adm. Code 280 or normal credit practices unless reinstated under subsection (a)(7)(A) before disconnection. A customer disconnected under this subsection shall have only one opportunity in any program year to be reconnected and participate further in the option. In order to be reconnected and reinstated, the former customer shall pay all amounts due the customer's home energy vendor(s), except for pre-program arrearages. For the period during which the customer was removed from the option or disconnected, the customer shall receive no benefits of the option.

C) A customer who voluntarily leaves Option 2 may be reinstated for assistance under the option only two times in any program year, and only if the customer has paid all amounts due the customer's home energy vendor(s), except for pre-program arrearages. For the period during which the customer was not participating in the option, the customer shall receive no benefits of the option.

D) A customer participating in Option 2 may be removed from the option for failure to abide by the provisions of Section 100.110(c)(1), but only after the home energy vendor has provided written notice of the pending removal and the customer has failed to respond in accordance with the notice. The notice must allow the customer to satisfy the payment provisions of Section 100.110(c)(1) by making payment of the past due amount by a specified date which shall be no less than 5 days after delivery of the notice or 8 days after mailing of the notice; and

E) A customer who complies with the provisions of a notice issued under subsection (a)(7)(D) shall be deemed not to have defaulted under subsection (a)(7)(B) and shall not be removed from the option for the reasons which were the subject of the notice.

b) Event of Default

Failure by the participating customer to comply with the requirements set forth in this subsection shall constitute a default under Option 2.

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c) AFDC Payment Process (Status Category 1)

1) Eligible applicants pursuant to Options 1 and 3 will receive a direct cash payment for energy assistance. This payment will be made, in accordance with appropriate interagency or grant agreements, by either the Department, the LAA, or the IDPA.

2) Eligible applicants pursuant to Option 2 will receive assistance, provided on their behalf by the IDPA to the applicant household's home energy vendor(s), equal to 90% of the adjusted average winter energy cost, detailed in Section 100.Appendix F. Payment shall be made as follows:

A) Public utilities (regulated by the ICC) A-home-energy vendor which credits the accounts of customers who are eligible for assistance in accordance with Option 2 shall be compensated by the Department IDPA for such credits on a month-by-month basis. Such compensation shall be made within 60 days of the Department's receipt of the public utility's home energy-vendor's request for payment. In order to receive payment on the applicant household's behalf, the public utility(ies) home-energy-vendor(s) must submit a request for payment to the Department. The home-energy-vendor(s) public utility(ies) may submit a request for payment for winter energy services as often as once a month, but in no case less than once for the entire winter season, to be submitted to the Department not later than June 30 following the end of such winter season. The Department will determine the actual payment after analyzing the request for payment for compliance of applicant eligibility in accordance with this Part. The IDPA will pay the public utility(ies) home-energy-vendor(s) submitting the aforementioned request, per month the lesser of the actual bill or one-sixth of the 90% of the adjusted average winter energy cost, specified in Section 100.Appendix F. Monthly payments to public utility(ies) home-energy-vendor(s) may be greater than the one-sixth amount, if during any winter month(s) the monthly payment was less than the one-sixth amount. In no case at the end of the six winter months will payment exceed 90% of the adjusted average winter energy cost specified in Section 100.Appendix F. The applicant's account shall be posted/credited with the payment within 30 days of the public utility's receipt thereof.

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B)

Home energy vendors not regulated by the ICC which credit the accounts of customers who are eligible for assistance in accordance with Option 2 shall be compensated by the IDPA for such credits. Such compensation shall be made within 60 days of the Department's receipt of the home energy vendor's request for payment. In order to receive payment on the applicant household's behalf, the home energy vendor(s) must submit a request for payment to the Department. The home energy vendor(s) may submit a request for payment for winter energy services as often as once a month, but in no case less than once for the entire winter season, to be submitted to the Department not later than June 30 following the end of such winter season. The Department will determine the actual payment after analyzing the request for payment for compliance of applicant eligibility in accordance with this Part. The IDPA will pay the home energy vendor(s) submitting the aforementioned request, the lesser of the actual bill or the full winter benefit of the adjusted average winter energy cost, specified in Section 100.Appendix F. In no case at the end of the six winter months will payment exceed 90% of the adjusted average winter energy cost specified in Section 100.Appendix F. The applicant's account shall be posted/credited with the payment within 30 days of the home energy vendors receipt thereof.

d) Category 1 - AFDC Reporting

- 1) Each home energy vendor which received payment from the Department for pre-program arrearages shall, pursuant to Section 11(b) of the Act, monitor the energy usage of the applicant on whose behalf such payment was made and report to the Department on such usage.
- 2) EACH regulated UTILITY SHALL REPORT ANNUALLY TO THE ILLINOIS COMMERCE COMMISSION THE AMOUNTS RECEIVED FROM THE DEPARTMENT FOR PRE-PROGRAM ARREARAGES PURSUANT TO Section 11(c) of the Act.
- 3) Close Out/Final Audit Report
Each home energy vendor who receives an aggregate total in excess of \$100,000 in REAPP funding attributable to any program year must undergo an audit for that program year by a certified independent accountant to substantiate the total amount requested for credits it extended during the

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previous winter under Option 2. A copy of the audit report must be submitted to the Department. The audit report shall specify what information was audited, the procedures performed, the home energy vendor's compliance with the provisions set forth in this Section, and the auditor's findings. The supporting work papers for the audit shall be made available to Department staff for review. The audit shall be submitted no later than the 15th of September following the winter covered by the audit. The audit shall include the independent accountant's opinion regarding the validity of the amount requested from the Department.

(Source: Amended at 14 Ill. Reg. _____, effective _____)
Section 100.113 Status Category 2 Procedures (Applicants not on AFDC Assistance - Block Grant Funding)

a) Application and Enrollment

- 1) Applications for assistance under this Section shall be submitted to and processed on a full-time basis by LAAs between November 1, and April 30 or until program funding is depleted. Between October 1 and October 31 only applicants that are elderly, disabled, and/or applicants that have been disconnected from their primary and/or secondary home energy vendor may submit an application for assistance under this Section. During the remainder of the year such applications will be processed by the agency at least two days per week, subject to State appropriations.

- 2) The applicant household is eligible to receive monthly benefits beginning in the month in which such applicant submits a completed application to the LAA. The LAAs shall either approve or disapprove a completed application within 30 days of its receipt and, in the event of approval, shall within the same 30 days notify the applicant and the applicant's home energy vendor in writing of the applicant's eligibility. If the application is incomplete at the time of its receipt, the LAA shall notify the applicant in writing at the time of its receipt of the application, of all the information required from the applicant to complete the application. The applicant shall submit the additional information necessary to complete the application within 15 days of the date of the notification letter. In the event an applicant fails to submit the application in a timely manner or fails to submit all information necessary to complete the application, the LAA may disapprove the application. If the LAA disapproves an

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application, it shall within 30 days of receipt of the completed application notify the applicant in writing of such disapproval and reasons for disapproval and such notification must also apprise the applicant of the dispute resolution procedures set forth in Section 100.85. If within 30 days of receipt of a completed application, the LAA does not send notice either approving or disapproving an application, this shall be deemed a denial of the application and the applicant shall be permitted, at the applicant's election, either to pursue the dispute resolution procedure set forth in Section 100.85 of this Part or to submit a new application.

- 3) When the home energy vendor receives written notice of a customer's eligibility for assistance under Option 5 or 6 (as described in Section 100.110(b)(2)(B) and (C)), the home energy vendor shall place the customer on the option within 30 days. During that period, the home energy vendor shall not disconnect the customer for nonpayment. If a customer's service is disconnected during that period, service shall be restored without penalty as soon as is practicable, and in no event later than as provided in 83 Ill. Adm. Code 280.130(f).

- 4) A home energy vendor may refuse to accept the notice of eligibility referred to above if it pertains to a person in the household who is not the customer of record, if it contains an incorrect account number or if the customer has failed to sign the Department's "Residential Energy Assistance Partnership Program" agreement form which lists the applicant's responsibilities as detailed in Section 100.110(c)(1) or (2). If the home energy vendor does not accept the notice of an applicant's eligibility, the home energy vendor must notify the applicant, the Department, and the LAA in writing within 14 days of the vendor's receipt of the notice that the applicant's enrollment was rejected, the reason for the rejection and what the applicant must do prior to the home energy vendor accepting the enrollment. The notification must also apprise the applicant of the availability of the dispute resolution procedures set forth in Section 100.85. The home energy vendor's notice must give the applicant 14 days from the postmark date of the notification to eliminate the reason for rejection. During the 14-day period following the postmark date, the home energy vendor shall not disconnect a customer for non-payment.

- 5) Each home energy vendor shall inform all residential customers by October 1, of each year, of the availability

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of the program provided for in this Part and the general qualifications for assistance under Option 5 or 6.

6) All written notices of discontinuance issued to residential customers pursuant to 83 Ill. Adm. Code 280 or the company's normal credit collection practices shall include information regarding the availability of the payment plan set forth in Option 5 or 6.

7) Except as provided in Section 100.110(c)(2), no home energy vendor may require payment by any individual, at any time, of any amount attributable to shortfall incurred by that individual as a result of participation in Option 5. The home energy vendor shall maintain the shortfall amount on each participating customer so that energy assistance funds may be applied as required by subsection(c)(2).

8) Default Provisions

A) A customer who defaults on payment under Option 5 or 6, pursuant to the notice issued under this Section, may be removed from the option. Unless the customer is disconnected under subsection (a)(8)(B), the customer shall be reinstated by paying all amounts which would have been due under the terms of the option. A customer shall only be reinstated pursuant to this subsection two times in any program year.

B) A customer who defaults on payment may be disconnected by the customer's home energy vendor under 83 Ill. Adm. Code 280 or the company's normal credit collection practices unless reinstated under subsection (a)(8)(A) before disconnection. A customer disconnected under this subsection shall have only one opportunity in any program year to be reconnected and participate further in the option. In order to be reconnected and reinstated, the former customer shall fully comply with the applicable reconnection provisions contained in 83 Ill. Adm. Code 280. A former customer reconnected under this subsection will be deemed to have the same income as at the time of disconnection, unless the recertification required by subsection (a)(9) has come due, in which case the newer income amount will be used to determine eligibility for the option and the amount of monthly payments.

C) A customer who voluntarily leaves Option 5 or 6 may be reinstated only two times in any program year and

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only if the customer has paid or pays in full the greater of:

i) all monthly bills incurred during the period the customer was off the option, or

ii) the amounts that would have been due under Section 100.110(c)(2) to avoid disconnection had the customer stayed on the option.

D) A customer participating in Option 5 or 6 may be removed from assistance for failure to abide by the provisions of subsection (b) and Section 100.110(c)(1) or (2), but only after the home energy vendor has provided written notice of the pending removal and the customer has failed to respond in accordance with the notice. The notice must allow the customer to satisfy the payment provisions of Section 100.110(c)(1) or (2) by making payment of the past due amount by a specified date which shall be no less than 5 days after delivery of the notice or 8 days after mailing of the notice; and

E) A customer who complies with the provisions of a notice issued under subsection (a)(8)(D) shall be deemed not to have defaulted under this subsection and shall not be removed from the option for the reasons which were the subject of the notice.

9) Recertification

A) In accordance with subsection (a)(5), the home energy vendor shall send a notice to each customer participating in the option not later than October 1, 1991, advising the customer that he/she must apply to be recertified by the Department or he/she will be removed from the option. Between October 1, 1991 and December 31, 1991, the Department shall send a notice to each participating customer who has not applied for recertification reminding the customer that he/she must apply to be recertified. In order for the customer to remain eligible for the option a final determination granting recertification must be made by January 31, 1992.

B) If a home energy vendor has not received notice from the Department or its staff by December 31, 1991 that a customer has been recertified, the home energy vendor

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shall send a notice by December 15 reminding that customer that he/she must apply to be recertified at the LAA by December 31 or he/she will be removed from the option:

B) If a home energy vendor learns as a result of the annual recertification process described in this Section that a customer's household income has increased or decreased, but the customer is still eligible for participation in Option 5, the home energy vendor shall, within 30 days of learning of the change, adjust the customer's monthly payments in a manner consistent with subsections (c)(1) and (2).

b) Event of Default

Failure by the participating customer to comply with the requirements set forth in this Section shall constitute a default as set forth in Option 5 or 6.

c) Non-AFDC Payment Process (Status Category 2)

1) Eligible applicants pursuant to Option 4 (as described in Section 100.110(b)(2)(A)) will receive a direct cash payment for energy assistance in accordance with Section 100.110(b)(2)(A). This payment will be made, in accordance with appropriate grant agreements, by either the Department or the LAA.

2) To the extent that a home energy vendor public utility experiences a shortfall because the amounts received by the home energy vendor public utility pursuant to Option 5 are less than the actual amounts incurred for heating or electric service rendered, the home energy vendor public utility shall be compensated by the Department for such shortfall. Such compensation shall be made on a month-by-month basis and the Department shall pay 90% of the amount claimed by the home energy vendor public utility for a month within 60 days of the Department's receipt of the home energy vendor public utility's application therefor.

A) By September 15 of each year, each home energy vendor public utility which during the previous winter incurred shortfall under Option 5, shall be reimbursed by the Department for all such shortfall for which the home energy vendor public utility has not previously been paid.

B) In order to receive payment on the applicant household's behalf, the home energy vendor(s) public utility(ies) must submit a request for payment to the Department. The home energy vendor(s) public utility(ies) may submit a request for payment of shortfall as often as once a month, but in no case less than once for the entire winter season, to be submitted to the Department not later than July 15 following the end of such winter season. The Department will determine the actual payment after analyzing the request for payment for compliance of applicant eligibility in accordance with this Part. The applicant's account shall be posted/credited with the payment within 30 days of the public utility's receipt thereof.

C) Shortfall or client percentage of income amounts that result in a credit on the applicant's account shall remain on that account to offset future shortfall. If the applicant is removed from the program through default or by voluntary action, then any credit may be used to cover any amounts that may come due for pre-program arrearage or deposits to that account previously owed. Any credit remaining on the account after applicable pre-program arrearage and deposit amounts have been reimbursed shall remain on such account or be subject to normal credit practices of the home energy vendor. In order to be reinstated on Option 5 of the program, the applicant must repay the amount of such credit that existed at the time of removal from the Option in addition to any amounts owed under Section 100.113(a)(8).

3) A home energy vendor which credits the accounts of customers who are eligible for assistance in accordance with Option 6 shall be compensated by the Department for such credits. Such compensation shall be made within 60 days of the Department's receipt of the home energy vendor's request for payment. In order to receive payment on the applicant household's behalf, home energy vendor(s) must submit a request for payment to the Department. The home energy vendor(s) may submit a request for payment for winter energy services as often as once a month, but in no case less than once for the entire winter season, to be submitted to the Department not later than June 30 following the end of such winter season. The Department will determine the actual payment after analyzing the request for payment for compliance of applicant eligibility in accordance with this Part. The Department will pay the

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home energy vendor(s) submitting the aforementioned request, the lesser of the actual bill or the full winter benefit of the adjusted average winter energy cost, specified in Section 100.110 Appendix F. In no case at the end of the six winter months will payment exceed 90% of the adjusted average winter energy cost specified in Section 100.110 Appendix F. The applicant's account shall be posted/credited with the payment within 30 days of the home energy vendor's receipt thereof.

4) Eligible applicants pursuant to Option 6 Z (as described in Section 100.110(b)(2)(C)) will receive assistance, provided on their behalf to the applicant household's home energy vendor(s) in an amount detailed in Section 100.110 Appendix E. This payment will be made, in accordance with appropriate grant agreements by either the Department or the LAA.

d) Category 2 - Non-AFDC Reporting

1) Each home energy vendor which received payment from the Department for pre-program arrearages, pursuant to Section 11 of the Act, shall monitor the energy usage of the applicant on whose behalf such payment was made and report to the Department on such usage.

2) EACH REGULATED UTILITY SHALL REPORT ANNUALLY TO THE ILLINOIS COMMERCE COMMISSION THE AMOUNTS RECEIVED FROM THE DEPARTMENT FOR PRE-PROGRAM ARREARAGES PURSUANT TO SECTION 11(c) OF THE ACT.

3) Close Out/Final Audit Report

Each home energy vendor who receives an aggregate total in excess of \$100,000 in REAPP funding attributable to any program year must undergo an audit for that program year by a certified independent accountant to substantiate the total amount requested for shortfall credits it extended during the previous winter under Option 5 or 6. A copy of the audit report must be submitted to the Department. The audit report shall specify what information was audited, the procedures performed, the home energy vendor's compliance with the provisions set forth in this Section, and the auditor's findings. The supporting work papers for the audit shall be made available to Department staff for review. The audit shall be submitted no later than the 15th of September following the winter covered by the audit. The audit shall include the independent accountant's opinion regarding the validity of the amount requested from the Department.

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(Source: Amended at 14 Ill. Reg. _____, effective _____)
Section 100.117 Supplemental Assistance (Repealed)

The following Section is only applicable for supplemental assistance provided prior to November 17, 1989:

a) Prior to November 17, 1989, the Illinois Commerce Commission (ICC) operated a supplemental assistance option which provided supplemental energy assistance payments to home energy vendors on behalf of households who were eligible for energy assistance (see Section 100.120 for eligibility) and had participated in a percentage of income payment option. A percentage of income option is a program for eligible low-income home energy vendor customers which is designed to lower their bills. To receive assistance the household must pay a percentage of their income toward their home energy bills. Operation of this option was contingent upon availability of funds through state appropriations.

b) The supplemental payments were made on the household's behalf to all home energy vendors who provided service pursuant to a percentage of income payment program. The actual amount of the supplemental payments was the difference between the billings for service used by the household and the customer's monthly payments due under the program, minus any energy assistance payments made to the customer's account on behalf of the household. This included both payments made directly by the household and payments received by the home energy vendor on the household's behalf. In accordance with Section 4-2 and 4-3 of the Energy Assistance Act (Ill. Rev. Stat., 1989, ch. 111 2/3, pars. 1304.2 and 1304.3) and subsection (c) of the Department shall make supplemental payments to home energy vendors that participated in percentage of income payment programs in Illinois.

c) The ICC administered the Illinois Residential Affordable Payment Program (IRAPP), a percentage of income payment program, through the regulated utilities in the State of Illinois. Program specifics and eligibility can be found in ICC rules entitled "Energy Assistance" (83 Ill. Adm. Code 281). Utility companies operating programs under the Energy Assistance Act may be required to undergo an audit in accordance with Section 4-3 of the Energy Assistance Act. The ICC shall by order determine the amount properly payable to each utility for supplemental assistance (shortfall) under the program for the period ended November 30, 1989. Within 60 days after entry of each such order, the Department shall pay to the utility the amount which the ICC has found to be properly payable. Within 60 days of the entry by the ICC of an order finding the amount properly payable

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to a utility for supplemental assistance (shortfall) under the program for the period of December 17, 1987 through October 31, 1989; the Department shall, from the fund appropriated to it for shortfall under the program, pay to the utility the amount which the ICE has found to be properly payable.

d) Home energy vendors not regulated by the ICE, which participate in either percentage of income programs, shall submit a letter to the Department requesting supplemental assistance. Each home energy vendor must undergo an independent audit by an independent accountant to substantiate the supplemental assistance amount that it has requested. A copy of the audit report must be submitted to the Department. The audit report shall specify what information was audited, the procedures performed, the home energy vendor's compliance with the provisions set forth in this part, and the auditor's findings. The supporting working papers for the audit shall be made available to Department staff for review. The Department will then enter into a contract with each home energy vendor allowing disbursement of payment.

(Source: Repealed at 14 Ill. Reg. _____, effective _____)

Section 100.120 Determination of Household Eligibility

a) Household applications for assistance through program options contained in Sections 100.111 through 100.115 will be accepted on a year-round basis by local administering agencies, if there are sufficient funds allocated to the LAA to grant assistance through program options.

b) Eligibility requirements for Section 100.110(b)(1)(A) through (C) and Section 100.110(b)(3)(A) and (B) of this Part is limited to households that are receiving Aid to Families with Dependent Children under Article IV of the Illinois Public Aid Code. LAAs are responsible for determining household eligibility in accordance with the Act. Payments should be made under Section 100.110(b)(1)(B) and (C) of this Part only with respect to households in which the customer of record is a member of the applicant household and such customer of record is receiving Aid to Families with Dependent Children under Article IV of the Illinois Public Aid Code. If the customer is a former member of the household, and has permanently left such household, and another member of the household is receiving AFDC funding and has assumed responsibility for the home energy vendor(s) account, then such household will be eligible for assistance. In such cases, such household member's signature on the Department's Residential Energy Assistance Partnership Program agreement form, which lists the applicant's responsibilities as detailed in Section 100.110(e)(1), shall constitute acceptance by the

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household and the home energy vendor of that household member's responsibility for that account.

c) Eligibility Requirements for Section 100.110(b)(2)(A) through (C) and Section 100.110(b)(3)(A) and (B) of this Part is for a 30-day period, based on 125% of the OMB Poverty Guidelines - LAAs are responsible for determining household eligibility in accordance with Section 2605(b)(2) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) (codified at 42 U.S.C. 8621 et seq.) and shall make payments under this title only with respect to -

1) The customer of record must be a member of the household that applies for assistance and be a member of the household. If the customer is a former member of the household, and has permanently left such household, and another member of the household has assumed responsibility for the home energy vendor(s) account, then such household will be eligible for assistance. Such household member's customer of record's signature on the Department's "Residential Energy Assistance Partnership Program" agreement form, which lists responsibilities as detailed in Section 100.110(c)(2), shall constitute acceptance by the household customer of record and the home energy vendor of that household member's responsibility for that account.

2) A household applying for emergency service must meet:

- A) income guidelines as specified in subsection(c);
- B) be disconnected from their primary and/or secondary heat source; and
- C) have paid toward their primary and/or secondary heat source within the past 90 days a "good faith" payment of not less than twelve percent of the household's past 90 day income. The twelve percent rule may be waived in cases of extreme economic hardship. Extreme economic hardship exists when the household's source of income has been permanently terminated for at least 30 days and a new source of income has not commenced.

d) Application Requirements - A client application for assistance under Status Category 2 (set forth in Section 100.110(a)(1)) is complete when it contains:

- 1) a copy of utility bill(s) or landlord statement that energy payments are included in the rent;

Section 100.Appendix E REAPP Direct Payment Matrix

SOUTHERN REGION

If Primary Vendor is:	Payment Will Be:	
	Primary Only	Secondary Only Primary and Secondary
Gas		
Wood		Primary \$100
Coal		Secondary \$ 50
Other	\$150	
LP Gas		
Oil	\$175200	Primary \$17132 Secondary \$ 58 68
All Electric	\$200	

Does Not Pay Own Bills	
All Utilities Included in Rent	\$150

NORTHERN REGION

If Primary Vendor is:	Payment Will Be:	
	Primary Only	Secondary Only Primary and Secondary
Gas		
Wood		Primary \$120
Coal		Secondary \$ 60
Other	\$180	
LP Gas		
Oil	\$210240	Primary \$140159 Secondary \$ 70 81
All Electric	\$240	

Does Not Pay Own Bills	
All Utilities Included in Rent	\$180

(Source: Amended at 14 Ill. Reg. _____, effective _____)

2) proof of income for any household member age 18 or older (e.g., check stub or public aid green card);

3) for an applicant whose utility service has been disconnected and is applying for an emergency service payment, proof that the household has paid 12% of its household income over the last 90 days toward its utility bills (e.g., a copy of the applicant's utility bills);

- 4) head of household information;
- 5) dwelling information;
- 6) household income information; and
- 7) home energy information.

e)8) A client application for assistance under Status Category 1 set forth in Section 100.110(a)(2), shall consist of a completed Illinois Department of Public Aid "Request for REAPP Payment" application form.

f)e) Notification Requirements - Households will receive written notification regarding eligibility determination within 30 days of the date the client application is complete. Additionally, home energy vendors (e.g., utility companies) receiving a payment on behalf of an eligible household will be notified in writing of the household's eligibility.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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Section 100.Appendix F 90% of the Adjusted Average Winter Energy Cost
(Monthly Allowable Payment)

	AFBC							
	REGION I (SOUTH)							
HOUSEHOLD SIZE	1	2	3	4	5	6	7	8
Natural Gas	\$ 73	\$ 75	\$ 77	\$ 80	\$ 82	\$ 84	\$ 86	\$ 89 88
Electricity	\$ 31 34	\$ 36 39	\$ 40 43	\$ 44 48	\$ 49 53	\$ 53 58	\$ 58 63	\$ 62 68
Total	\$104 107	\$111 114	\$117 121	\$124 128	\$131 135	\$137 142	\$144 149	\$151 156

All Electric	\$ 75 82	\$ 96 105	\$117 128	\$130 151	\$159 173	\$180 196	\$201 214	\$222 237
Other Primary Electricity	\$ 59 87	\$ 68 89	\$ 77 92	\$ 87 95	\$ 96 97	\$106 100	\$115 103	\$124 106
Total	\$ 91 121	\$104 128	\$117 135	\$133 143	\$145 150	\$159 158	\$173 166	\$186 174

	AFBC							
	REGION II (NORTH)							
HOUSEHOLD SIZE	1	2	3	4	5	6	7	8
Natural Gas	\$ 97	\$100 99	\$102	\$104	\$106	\$108	\$111 110	\$113 112
Electricity	\$ 33 36	\$ 37 41	\$ 42 45	\$ 46 50	\$ 51 55	\$ 55 60	\$ 60 65	\$ 64 70
Total	\$130 133	\$137 140	\$144 147	\$150 154	\$157 161	\$163 168	\$171 175	\$177 182

All Electric	\$ 87 95	\$108 118	\$129 141	\$150 180	\$171 187	\$192 210	\$213 233	\$234 256
Other Primary Electricity	\$ 76 116	\$ 85 118	\$ 95 121	\$104 124	\$113 126	\$123 129	\$132	\$142 135
Total	\$ 109 152	\$122 159	\$137 166	\$150 174	\$164 181	\$178 189	\$192 197	\$206 205

(Source: Amended at 14 Ill. Reg. _____, effective _____)

- 1) Heading of the Part: HEALTH CARE
- 2) Code Citation: 20 Ill. Adm. Code 415
- 3) Section Numbers: Proposed Action:
415.15 Amend
415.20 Amend
415.30 Amend
415.70 Add
- 4) Statutory Authority: Implementing and authorized by Section 3-2-2 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38. par. 1003-2-2).
- 5) A Complete Description of the Subjects and Issues Involved: These proposed rules contain procedures for psychotropic medication to be administered against any committed person's will or without the consent of a parent or guardian of a minor who is under age 18 and confined in the Juvenile Division. Absent an emergency, the committed person shall be afforded a hearing prior to the involuntary administration of such medication. These rules also provide for an appeal of the hearing decision and monitoring procedures for continuous or regular use of psychotropic medication. The parent or guardian of a minor who is under the age of 18 and confined in the Juvenile Division will be provided with notice of a hearing and written decisions and will be permitted to attend and participate in the hearing. In addition, statutory citations are being updated and the rule regarding termination of pregnancies is being modified to require the Department to provide information and counseling rather than permit the committed person to obtain such assistance.
- 6) Will this proposed rule replace an emergency rule currently in effect?
Yes.
- 7) Does this rulemaking contain an automatic repeal date? ____ Yes
X No
- 8) Does this proposed amendment contain incorporation by reference? No.
- 9) Are there any other proposed amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives: Not applicable; this rulemaking does not create or expand any State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

William H. Craine, Ph.D., Deputy Director
Illinois Department of Corrections
1301 Concordia Court
P. O. Box 19277
Springfield, Illinois 62794-9277

All written comments received within 45 days of the date of the publication will be considered.

- 12) Initial Regulatory Flexibility Analysis: Not required; this rulemaking does not affect small businesses.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER d: PROGRAMS AND SERVICES

PART 415
HEALTH CARE

Section

415.10	Applicability
415.15	Responsibilities
415.20	Definitions
415.30	Medical and Dental Examinations and Treatment
415.40	Mental Health Services
415.50	Mental Health Examinations and Treatment for Guilty but Mentally Ill
415.60	Review of Placements in a Specialized Mental Health Setting
415.70	Involuntary Administration of Psychotropic Medication

AUTHORITY: Implementing Sections 3-2-2, 3-7-2, 3-8-2, 3-10-2, 3-10-3 and 5-2-6 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, pars. 1003-2-2, 1003-7-2, 1003-8-2, 1003-10-2, 1003-10-3 and 1005-2-6) and authorized by Section 3-7-1 of the Unified Code of Corrections (Ill. Rev. Stat. 1989, ch. 38, par. 1003-7-1).

SOURCE: Adopted at 8 Ill. Reg. 14496, effective August 1, 1984; amended at 11 Ill. Reg. 10240, effective June 1, 1987; emergency amendment at 14 Ill. Reg. 13316, effective August 1, 1990, for a maximum of 150 days; amended at ____ Ill. Reg. ____, effective ____.

Section 415.15 Responsibilities

- a) Unless otherwise specified, the Director₂ or Chief Administrative Officer₁ or Agency Medical Director may delegate responsibilities stated in this Part to another person or persons or designate another person or persons to perform the duties specified.
- b) No other individual may routinely perform duties whenever a rule in this Part specifically states the Director₁ or Chief Administrative Officer₁ or Agency Medical Director shall personally perform the duties. However, the Director₁ or Chief Administrative Officer₁ or Agency Medical Director may designate another person or persons to perform the duties during periods of his temporary absence or in an emergency.

(Source: Amended at 14 Ill. Reg. ____, effective ____.)

Section 415.20 Definitions

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(Source: Amended at 14 Ill. Reg. _____, effective _____)

a) "Agency Medical Director" means the Medical Director of the Department of Corrections.

b) "Communicable disease" means a disease caused by an organism which is transmitted through airborne means and/or casual contact, or through blood or bodily secretion contact from one human being to another.

c) "Department physician or dentist" means any physician or dentist who provides services for the Department.

d) "Gravely disabled" means a condition in which a committed person, as a result of a mental illness or mental disorder:

1) Is in danger of serious physical harm resulting from his failure to provide for his essential human needs of health or safety; or

2) Manifests serious deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his actions which is likely to jeopardize his health or safety.

e) "Likelihood of serious harm" means:

1) A substantial risk that physical harm will be inflicted by a committed person upon his own person as evidenced by, among other things, threats or attempts to commit suicide or inflict physical harm on one's self; or

2) A substantial risk that physical harm will be inflicted by a committed person upon another as evidenced by, among other things, behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or

3) A substantial risk that physical harm will be inflicted by a committed person upon the property of others as evidenced by, among other things, behavior which has caused substantial loss or damage to the property of others.

f) "Mental health professional" means a psychiatrist, physician, psychiatric nurse, clinical clinically trained psychologist or an individual who has a master's degree in social work and clinical training.

g) "Physician" means an individual who is licensed by the State of Illinois to practice medicine in all of its branches.

Section 415.30 Medical and Dental Examinations and Treatment

a) Within seven working days of admission to a reception and classification center, each committed person shall be given a physical examination by a physician and immunized as prescribed by the physician.

b) Each committed person shall be examined by a dentist within 10 working days of admission to a reception and classification center. The dentist shall be responsible for charting the oral cavity and classifying dental health.

c) Emergency treatment shall be available to committed persons 24 hours a day.

d) A health care unit or area shall be established at each correctional facility within the Adult and Juvenile Divisions. Committed persons shall be admitted to the health care unit or area as determined by health care personnel.

e) Committed persons shall be informed of the institutional procedures for obtaining medical, dental or mental health services.

f) Persons committed to the Adult and Juvenile Division facilities shall be provided medical and dental treatment, with the consent of the parent or guardian where applicable, as prescribed by a Department physician or dentist.

g) A committed person who has or is suspected of having a communicable disease may be isolated from other committed persons. This determination shall be made by a physician as deemed medically necessary.

h) In case of critical illness or major surgery, the Chief Administrative Officer shall attempt to notify the person designated by the committed person to be contacted in case of an emergency and, where applicable, the parent or guardian.

i) The decision to continue or terminate a pregnancy is a medical determination which shall be made by the committed person in consultation with her physician.

1) Committed persons contemplating an abortion shall be permitted to obtain provided with information and counseling

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

concerning the nature, the consequences, and any risks associated with the procedure and available alternatives.

- 2) Committed persons shall be granted a furlough for the purpose of obtaining an abortion. Committed persons shall be permitted to accept funds for an abortion from local community charities or other sources.

- j) A record of all medical and dental examinations, findings, and treatment shall be maintained.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 415.70 Involuntary Administration of Psychotropic Medication

a) Administration of Psychotropic Medication

- 1) No psychotropic medication shall be administered to any committed person against his will or without the consent of the parent or guardian of a minor who is under the age of 18 and confined in the Juvenile Division, unless:

- A) A psychiatrist, or in the absence of a psychiatrist a physician, has determined that:
- i) The committed person suffers from a mental illness or mental disorder; and
 - ii) The medication is in the medical interest of the committed person; and
 - iii) The committed person is either gravely disabled or poses a likelihood of serious harm to himself or others; and

- B) The administration of such medication has been approved by the Treatment Review Committee after a hearing (see subsection (b)). However, no such approval or hearing shall be required when the medication is administered in an emergency situation. An emergency situation exists whenever the required determinations listed in subsection (a)(1)(A) have been made and a psychiatrist, or in the absence of a psychiatrist a physician, has determined that the committed person poses an imminent threat of serious physical harm to himself or others. In all emergency situations, the procedures set forth in subsection (e) shall be followed.

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- 2) Whenever a physician orders the administration of psychotropic medication to a committed person against his will, the physician shall document in the committed person's medical file that the standards in subsection (a)(1) have been met and:

- A) The Chief Administrative Officer shall be notified as soon as practicable; and
- B) Unless the medication was administered in an emergency situation, the Chairperson of the Treatment Review Committee shall be notified in writing within three days.

b) Treatment Review Committee Procedures

The Treatment Review Committee shall be comprised of two members appointed by the Chief Administrative Officer, one of whom shall be a physician other than the physician who ordered the medication. The other member shall serve as Chairperson of the Committee. The members of the Committee shall have completed a training program in the issues involved which has been approved by the Agency Medical Director.

- 1) The Chief Administrative Officer shall designate a member of the program staff to assist the committed person as may be necessary. The staff assistant shall have completed a training program in the issues involved which has been approved by the Agency Medical Director.
- 2) The committed person and staff assistant shall receive written notification of the time and place of the hearing at least 24 hours prior to the hearing. The notification shall include the tentative diagnosis and the reasons why the medical staff believes the medication is necessary. The staff assistant shall meet with the committed person prior to the hearing to discuss the issues involved.
- 3) The committed person shall have the right to attend the hearing unless the Committee determines that it is likely that his attendance would subject him to substantial risk of serious physical or emotional harm or pose a threat to the safety of others. The staff assistant shall appear at the hearing whether or not the committed person appears.
- 4) The documentation in the medical file referred to in subsection (a)(2) shall be reviewed by the Committee and the Committee may request the physician's personal appearance at the hearing.

DEPARTMENT OF CORRECTIONS

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- 5) Prior to the hearing, the committed person and the staff assistant may request in writing that witnesses be interviewed and may submit written questions for witnesses to the Chairperson of the Committee. These questions shall be asked by the Committee unless cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility. If any witness is not interviewed, a written reason shall be provided.
- 6) At the hearing, the committed person and the staff assistant may make statements and present documents which are relevant to the proceedings. The staff assistant may direct relevant questions to any witnesses appearing at the hearing. The committed person may request that the staff assistant direct relevant questions to any witnesses appearing at the hearing and the staff assistant shall ask such questions unless cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility.
- 7) The Committee shall make such investigation as it deems necessary. The staff assistant shall be informed of any investigation conducted by the Committee and shall be permitted to direct relevant questions to any witnesses interviewed by the Committee. The staff assistant shall consult with the committed person regarding any statements made by witnesses interviewed by the Committee and shall comply with requests by the committed person to direct relevant questions to such witnesses unless cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility.
- 8) The Committee shall consider all relevant information and material which has been presented in deciding whether to approve administration of the medication.
- 9) A written decision shall be prepared and signed by all members of the Committee which contains a summary of the hearing and the reasons for approving or disapproving the administration of the medication. Copies of the decision shall be given to the committed person, the staff assistant, and the Chief Administrative Officer. The Chief Administrative Officer shall direct staff to comply with the decision of the Committee.
- 10) If the Committee approves administration of the medication, the committed person shall be advised of the opportunity to appeal the decision to the Agency Medical Director by filing a

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

written appeal with the Chairperson within five days of the committed person's receipt of the written decision.

c) Review by Agency Medical Director

- 1) If the committed person appeals the Treatment Review Committee's decision, staff shall continue to administer the medication as ordered by the physician and approved by the Committee while awaiting the Agency Medical Director's decision on the appeal.
- 2) The Chairperson of the Committee shall promptly forward the written notice of appeal to the Agency Medical Director or a physician designated by the Agency Medical Director.
- 3) Within five working days of his receipt of the written notice of appeal, the Agency Medical Director shall:
 - A) Review the Committee's decision, make such further investigation as he deems necessary, and submit a written decision to the Chief Administrative Officer; and
 - B) Provide a copy of the written decision to the committed person, the staff assistant, and the Chairperson of the Committee.
- 4) The Chief Administrative Officer shall direct staff to comply with the decision of the Agency Medical Director.
- d) Periodic Review of Medication
 - 1) Whenever any committed person has been involuntarily receiving psychotropic medication continuously or on a regular basis for a period of six months, the administration of such medication shall, upon the committed person's written request, be reviewed by the Treatment Review Committee in accordance with the procedures enumerated in subsections (b) and (c). Every six months thereafter, for so long as the involuntary medication continues on a regular basis, the committed person shall have the right to a review hearing upon written request.
 - 2) Every committed person who is involuntarily receiving psychotropic medication shall be evaluated by a psychiatrist at least every 30 days, and the psychiatrist shall document in the committed person's medical file the basis for his decision to continue the medication.

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DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

e) Emergency Procedures

Subsequent to the involuntary administration of psychotropic medication in an emergency situation:

- 1) The basis for the decision to administer the medication shall be documented in the committed person's medical file and a copy of the documentation shall be given to the committed person and to the Agency Medical Director for review.
- 2) A mental health professional shall meet with the committed person to discuss the reasons why the medication was administered and to give the committed person an opportunity to express any concerns he may have regarding the medication.

f) Documentation

Copies of all notifications and written decisions shall be placed in the committed person's medical file.

g) Grievances

A committed person may submit a grievance concerning the involuntary administration of psychotropic medication directly to the Administrative Review Board in accordance with 20 Ill. Adm. Code 504. Subpart F. In considering the grievance, the Board shall confer with the Agency Medical Director.

h) Minors in the Juvenile Division

In the case of a committed person who is a minor under the age of 18 and confined in the Juvenile Division, the parent or guardian shall be sent the documentation and written decisions that are provided to the committed person pursuant to this Section and shall be permitted to attend and participate in any proceedings required by this Section. Notice of any Treatment Review Committee hearing shall be promptly sent to the parent or guardian and reasonable attempts shall be made to provide such notice at least 24 hours prior to the hearing.

(Source: Added at 14 Ill. Reg. _____, effective _____)

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DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Rules and Rate Filings

2) Code Citation: 50 Ill. Adm. Code 754

3) Section Numbers: Proposed Action:

754.EXHIBIT C

Amended

4) Statutory Authority: Implementing Articles VII-A and XXVI of the Illinois Insurance Code (Ill. Rev. Stat. 1989, ch. 73, pars. 735A and 1028 et seq.) and authorized by Section 401(a) of the Illinois Insurance Code (Ill. Rev. Stat. 1989, ch. 73, par. 1013).

5) A Complete Description of the Subjects and Issues Involved:
The Department has the authority "... to make reasonable rules and regulations as may be necessary ..." pursuant to Ill. Rev. Stat. 1989, ch. 73, par. 1013. These changes are being made to bring the form up to date, as well as changing some of the cities to get a better spread for premium comparisons throughout the state.

6) Will this proposed rule replace emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: n/a

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Timothy Cena, Staff Attorney
Department of Insurance
100 West Randolph, Suite 15-100
Chicago, Illinois 60601

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this rule will not affect small businesses as that term is defined by Ill. Rev. Stat. 1989, ch. 127, par. 1003.10.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER i: ADVISORY ORGANIZATIONS

PART 754
RULES AND RATE FILINGS

Section

- 754.10 Companies Must File
- 754.20 Other Company Filings
- 754.30 Documentation - Individual Risks
- 754.40 Submission of Filings
- 754.40 Prohibited Acts and Practices
- 754.50 Prohibited Acts and Practices
- 754.EXHIBIT A. Summary Sheet (Form RF-3)
- 754.EXHIBIT B. Automobile Annual Premium Comparison (Form RF-4)
- 754.EXHIBIT C. Homeowners Annual Premium Comparison (Form RF-5)

AUTHORITY: Implementing Articles VII-A and XXVI of the Illinois Insurance Code (Ill. Rev. Stat. 1989, ch. 73, pars. 735A and 1028 et seq.) and authorized by Section 401(a) of the Illinois Insurance Code (Ill. Rev. Stat. 1989, ch. 73, par. 1013).

SOURCE: Filed September 9, 1975, effective September 30, 1975; amended at 4 Ill. Reg. 26, p. 164, effective July 1, 1980; codified at 7 Ill. Reg. 3458; amended at 13 Ill. Reg. 1542 effective January 23, 1989; amended at 14 Ill. Reg. 5793, effective April 6, 1990; amended at _____ Ill. Reg. _____, effective _____.

Section 754.EXHIBIT C Homeowners Annual Premium Comparison (Form RF-5)

COVERAGE	HO-2-6-3-ONE-FAMILY-BUILDING				HO-4-7-SIX-UNIT-NON-FIRE-RESISTIVE-BUILDING			
	HO-2	HO-3	HO-4	HO-4	HO-2	HO-3	HO-4	HO-4
20-Years-Old								
\$100-Deductible								
\$50,000-Personal-Liability								
\$1,000-Medical-Payments								
CONSTRUCTION	Frame	Brick						
FORMS	HO-2	HO-3	HO-4	HO-4	HO-2	HO-3	HO-4	HO-4
LIMITS	\$70,000	\$120,000	\$70,000	\$120,000	\$30,000	\$60,000	\$70,000	\$120,000
Aurora								
Chicago*								
Chicago**								
Chicago***								
Danville								
East St. Louis								
Joliet								
Mt. Vernon								
Peoria								
Quincy								
Rockford								
Springfield								
Waukegan								

* 5200 N. Western 60625
** 2400 W. Roosevelt 60608
*** 7900 S. Ashland 60620

Effective Date _____
Name of Company _____
FEIN Number _____

Section 754.EXHIBIT C Homeowners Annual Premium Comparison (Form RF-5)

Coverage	HO-2 & 3-One-Family Dwelling, 20 years old						HO-4-Six-unit Nonfire Resistive Building					
	\$250 Deductible \$100,000 Personal Liability \$1,000 Medical Payments						\$250 Deductible \$100,000 Personal Liability \$1,000 Medical Payments					
Construction	Frame						Brick					
Forms	HO-2		HO-3		HO-4		HO-2		HO-3		HO-4	
Limits	\$70,000	\$120,000	\$70,000	\$120,000	\$30,000	\$60,000	\$70,000	\$120,000	\$70,000	\$120,000	\$30,000	\$60,000
Aurora												
Chicago*												
Chicago**												
Chicago***												
Danville												
East St. Louis												
Joliet												
Mt. Vernon												
Peoria												
Quincy												
Rockford												
Springfield												
Waukegan												

* 5200 N. Western 60625
** 2400 W. Roosevelt 60608
*** 7900 S. Ashland 60620

Effective Date _____
Name of Company _____
FEIN Number _____

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

1) The Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities

2) Code Citation: 89 Ill. Adm. Code 147

3) Section Number: Proposed Action:

147.250 New Section
147. Table A Amendment

4) Statutory Authority: Sections 5.5.1 et seq. and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 5.5.1 et seq. and 12-13)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking provides for reimbursement for costs incurred by long term care providers as a result of requirements imposed under the terms of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87). This change is estimated to increase the Department's annual aggregate expenditures by \$27,000,000.

6) Will these Proposed Amendments replace Emergency Amendments currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date?
Yes ☒ No ☐

8) Does these Proposed Amendments contain incorporations by reference? No

9) Are there any other Proposed Amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
147.150	Amendment	May 5, 1990 (14 Ill. Reg. 6664)
147.150	Amendment	August 31, 1990 (14 Ill. Reg. 13967)
147.205	Amendment	August 31, 1990 (14 Ill. Reg. 13967)
147.300	Amendment	June 15, 1990 (14 Ill. Reg. 9355)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Section Numbers	Proposed Action	Illinois Register Citation
147.305	New Section	June 15, 1990 (14 Ill. Reg. 9355)
147.310	New Section	June 15, 1990 (14 Ill. Reg. 9355)
147.315	New Section	June 15, 1990 (14 Ill. Reg. 9355)
147.320	New Section	June 15, 1990 (14 Ill. Reg. 9355)
147.325	New Section	June 15, 1990 (14 Ill. Reg. 9355)
147.330	New Section	June 15, 1990 (14 Ill. Reg. 9355)
147.335	New Section	June 15, 1990 (14 Ill. Reg. 9355)
147.340	New Section	June 15, 1990 (14 Ill. Reg. 9355)
147.345	New Section	June 15, 1990 (14 Ill. Reg. 9355)
147.350	New Section	June 15, 1990 (14 Ill. Reg. 9355)
147.150	Amendment	May 4, 1990 (14 Ill. Reg. 6664)
147.300	Amendment	June 15, 1990 (14 Ill. Reg. 9355)

10) Statement of Statewide Policy Objectives (Ill. Rev. Stat. 1987, Ch. 85, par. 2205): This rulemaking has no effect on local governmental units.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Daniel Leikvoid, Office of the General Counsel, Illinois Department of Public Aid, 100 South Grand Avenue East, Springfield, Illinois

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DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

62762 (217/782-1233). The Department will consider all written comments it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis:
(If applicable, answer the following questions)

- A) Date Proposed Amendment was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: September 11, 1990
- B) Types of small businesses affected: Medical Providers
- C) Reporting, bookkeeping or other procedures required for compliance: No new procedures required.
- D) Types of professional skills necessary for compliance: No new skills required.

The full text of these Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page 15581.

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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part:

Illinois Alzheimer's Disease and Related Disorders Assistance Code

2) Code Citation:

77 Ill. Adm. Code 710

3) Section Numbers:

710.210

Proposed Action:

Amendments

4) Statutory Authority:

The Alzheimer's Disease Research Act and the Alzheimer's Disease Assistance Act
Ill. Rev. Stat. 1989, ch. 111 1/2, par. 6901 et seq. and par. 6951 et seq.

5) A Complete Description of the Subjects and Issues Involved:

The Department will consider funding a specific psychosocial research project beyond one fiscal year upon the recommendation of the Advisory Committee, contingent upon availability of checkoff funds and adequate performance/progress under the grant.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect?

Yes ___ No X

7) Does this Rulemaking contain an Automatic Repeal Date? Yes ___ No X

If "yes," please specify the date: _____

8) Does this Rulemaking Contain Any Incorporations By Reference?

Yes ___ No X

If "yes," please specify type: 6.02(a) ___ or 6.02(b) ___

9) Are there any other Proposed Amendments Pending on this Part?

Yes ___ No X

If Yes: _____

Section Numbers

Proposed Action

Ill. Reg. Citation

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

No additional skills required for proposed amendment.
The full text of the Proposed Amendments begins on the next page:

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DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

10) Statement of Statewide Policy Objectives:

The proposed rulemaking is to increase the efficiency of the Illinois Alzheimer's Disease Program.

The rulemaking does not affect a municipality, county, township, or other unit government, such as a school district or community college district to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenue.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to Mr. Robert John Kane, Division of Governmental Affairs, Illinois Department of Public Health, 525 West Jefferson, Second Floor, Springfield, Illinois 62761 within 45 days after this issue of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Robert John Kane at the above address.

Any small business (as defined in Section 3.10 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Date Rulemaking was Submitted to the Business Assistance Office of the Department of Commerce and Community Affairs:

September 4, 1990

B) Type of Small Businesses Affected:

Post-Secondary higher educational institutions, hospitals, laboratories and medical schools that employ researchers in the field of Alzheimer's disease and related disorders.

C) Reporting, Bookkeeping or Other Procedures Required for Compliance:

Completion of Illinois Department of Public Health Reimbursement Certification Forms and progress reports by funded researchers.

D) Types of Professional Skills Necessary for Compliance:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
 CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
 SUBCHAPTER 1: CHRONIC DISEASES

PART 710

ILLINOIS ALZHEIMER'S DISEASE AND RELATED DISORDERS ASSISTANCE CODE

SUBPART A: GENERAL PROVISIONS

SECTION

710.10 Applicability
 710.20 Definitions
 710.30 Incorporated Materials
 710.40 Availability of Information
 710.50 Administrative Hearings

SUBPART B: REGIONAL ALZHEIMER'S DISEASE AND RELATED DISORDERS ASSISTANCE NETWORK

SECTION

710.100 Description of the Network and Regions
 710.110 Designation Criteria for Regional ADA Centers
 710.120 Designation Procedures for Regional ADA Centers
 710.130 Designation Criteria for Primary Providers
 710.140 Designation Procedures for Primary Providers
 710.150 Services provided by Regional ADA Centers and Primary Providers
 710.160 Diagnostic Evaluation of AD/DR Patients
 710.165 Multi-disciplinary Team Responsibilities
 710.170 Treatment
 710.180 Support Services

SUBPART C: ALZHEIMER'S DISEASE AND RELATED DISORDERS GRANTS

SECTION

710.200 Grants to Regional AD/DR Assistance Centers
 710.210 Grants from the Alzheimer's Disease Research Fund
 710.220 Funding Criteria for Grants from the Alzheimer's Disease Research Fund
 710.230 Criteria for Approval of Alzheimer's Disease Research Act Proposals

Appendix A Regions of Illinois Department of Public Health/AD/DR

AUTHORITY: Implemented and authorized by the Alzheimer's Disease Research Act (111. Rev. Stat. 1989, ch. 111 1/2, par. 6901 et seq.) and Alzheimer's Disease Assistance Act (111. Rev. Stat. 1989, ch. 111 1/2, par. 6951 et seq.).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Emergency rules adopted at 10 Ill. Reg. 20029, effective November 21, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 8743, effective April 15, 1987; amended at 13 Ill. Reg. 16488, effective November 1, 1989; amended at 14 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 710.210 Grants from the Alzheimer's Disease Research Fund

- a) The Department shall make grants from the Alzheimer's Disease Research Fund. These grants will take two forms: General Research Grants not to exceed \$20,000 and Early Researcher's Grants not to exceed \$30,000. The Department will fund General Research Grants on an annual basis. The maximum number of years of funding any one research project shall be two. A renewal application must be submitted for grants funded for two years.
- b) Applications shall be approved based upon the following criteria: degree of compliance with the Act and this Part, and recommendations from the Alzheimer's Disease Advisory Committee.
- c) The exact amount and number of grants will depend upon amount of funds appropriated to the Department and the number of applications received and approved.
- d) The Department will consider funding a specific psychosocial research project beyond one fiscal year upon the recommendations of the Advisory Committee, contingent on continued availability of tax checkoff funds and adequate performance/progress under the grant.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Mr. R. Dale Yung
Administrator
Illinois Department of Revenue
Legal Services Bureau
101 West Jefferson
Springfield, Illinois 62708
Phone: (217) 782-6336

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Municipal Retailers' Occupation Tax Regulations
- 2) Code Citation: 86 Ill. Adm. Code 270
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
270.101	Amendment
270.105	Amendment
270.110	Amendment
270.115	Amendment
270.120	Amendment
270.125	Amendment
270.130	Amendment

- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1

- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the Home Rule Municipal Retailers' Occupation Tax aspects of tax reform. It changes the rate, base, and collection of tax to conform to current law. (See P.A. 85-1135 and P.A. 86-928.) Section 270.110 "Claims to Recover Erroneously Paid Tax" is modified to reflect the fact that administration and enforcement of locally imposed Retailers' Occupation Taxes, Service Occupation and Use Taxes are the responsibility of the Department of Revenue. A number of non-substantive changes have also been proposed to conform the rules to the requirements of the Secretary of State and to delete outdated provisions.

- 6) Will this proposed rule replace an emergency rule currently in effect: No

- 7) Does this rulemaking contain an automatic repeal date? Yes X No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other amendments pending on this Part: No

- 10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

12) Initial Regulatory Flexibility Analysis:

- A Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: September 5, 1990
- B) Types of small businesses affected: Any small business which makes sales of tangible personal property at retail in a home rule municipality which has imposed a local tax.

- C) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping and filing requirements applicable to other retailers and servicemen.

- D) Types of professional skills necessary for compliance: Bookkeeping and accounting.

The full text of the Proposed Amendments begins on the next page:

HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX REGULATIONS

PART 270

Section

270.101 Nature of the Home Rule Municipal Retailers' Occupation Tax

270.105 Registration and Returns

270.110 Claims to Recover Erroneously Paid Tax

270.115 Jurisdictional Questions

270.120 Incorporation of Retailers' Occupation Tax Regulations by Reference

270.125 Penalties, Interest and Procedures

270.130 Effective Date

AUTHORITY: Implementing the Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 24, par. 8-11-1) and authorized by Section 39b1 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 39b1).

SOURCE: Adopted August 1, 1955; amended at 3 Ill. Reg. 44, p. 189, effective October 19, 1979; amended at 6 Ill. Reg. 2836, 2839 and 2841, effective March 3, 1982; codified at 6 Ill. Reg. 9681; amended at ____ Ill. Reg. ____, effective ____.

NOTE: Capitalization denotes statutory language.

Section 270.101 Nature of the Home Rule Municipal Retailers' Occupation Tax

The legal incidence of the Home Rule Municipal Retailers' Occupation Tax is on the seller. Nevertheless, the General Assembly has authorized persons subject to any tax imposed pursuant to the authority granted in the Home Rule Municipal Retailers' Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 24, par. 8-11-1) (Home Rule Municipal ROT) to reimburse themselves for their sellers' Home Rule Municipal Retailers' Occupation Tax ROT liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 439.1 et seq.), pursuant to such bracket schedules as the Department may have prescribed. (See 86 Ill. Adm. Code 150. Table A)

Exclusion from "Gross Receipts"

Any amount added to the selling price of tangible personal property by the seller because of a Home Rule Municipal Retailers' Occupation Tax, or because of the Illinois Retailers' Occupation Tax, or as Illinois Use Tax, and collected from the purchaser, shall not be regarded as a part of the sellers' gross receipts that are subject to such Home Rule Municipal Retailers' Occupation Tax.

(Source: Amended at ____ Ill. Reg. ____, effective ____)

Section 270.105 Registration and Returns

a) Separate Registration Not Required

A retailer's registration under the Illinois Retailers' Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 440 et seq.) is sufficient for the Home Rule Municipal Retailers' Occupation Tax Act. No special registration for any home rule municipality's Retailers' Occupation Tax is required.

b) Requirements as to Returns

1) Every retailer must file a return each month for each municipality which has a Municipal Retailers' Occupation Tax in effect that month if the retailer is engaged in the business of selling tangible personal property at retail within that municipality. Provided that if the retailer is permitted to file his Illinois Retailers' Occupation Tax returns quarterly, his

all civil penalties that may be assessed as an incident thereof,

Section 270.101 Nature of the Home Rule Municipal Retailers' Occupation Tax

a) Authority to Impose Tax

Home Rule Municipalities, as defined in Section 8-11-1 of the Illinois Municipal Code (Ill. Rev. Stat. 1979, ch. 24, pars. 1-1-1 et seq.) are authorized to impose a tax on persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with this State's government, at retail within such municipality, at a rate not to exceed 1 1/4% on the gross receipts from such sales made in the course of such business. If imposed, such tax shall only be imposed in 1/4% increments. On and after September 1, 1991, this additional tax may not be imposed on the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics. The tax imposed by a home rule municipality pursuant to the Act and this Part and all civil penalties that may be assessed as an incident thereof,

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Municipal Retailers' Occupation Tax returns shall also be filed quarterly, and provided that if the retailer is permitted to file his Illinois Retailers' Occupation Tax returns annually, his Municipal Retailers' Occupation Tax returns shall also be filed annually. However, the information required for the Home Rule Municipal Retailers' Occupation Taxes may shall be furnished on the retailer's Illinois Retailers' Occupation Tax return form in the additional space that is provided on that form for reporting Municipal Retailers' Occupation Tax information.

2) If the retailer files his Illinois Retailers' Occupation Tax returns on the gross receipts basis, he must report Home Rule Municipal Retailers' Occupation Tax information in his returns on the same basis. If the retailer files his Illinois Retailers' Occupation Tax returns on the gross sales basis, he must report Home Rule Municipal Retailers' Occupation Tax information in his returns on the gross sales basis.

e) Deduction for Collecting Tax Not Allowed to Retailer Against Local Retailers' Occupation Tax Liability

The deduction from the tax allowed to retailers when remitting Illinois Retailers' Occupation Tax of the tax with a duly filed return is not available for Municipal Retailers' Occupation Tax purposes, so the retailer (in remitting Municipal Retailers' Occupation Tax to the Department) should not take any deduction from it for the cost of handling and reporting the tax or because of any other cost.

(Source: Amended at Ill. Reg. _____, effective _____)

Section 270.110 Claims to Recover Erroneously Paid Tax

a) Incorporation by Reference

In general, the provisions of Subpart O of the Illinois Retailers' Occupation Tax Regulations (86 Ill. Adm. Code 130) shall apply.

b) Separate Claim Required for Bad Tax Claims for Multiple Taxes

If the claimant files a claim for some State and some Municipal Retailers' Occupation Tax paid erroneously as to the same transactions, the claim will be audited, heard or otherwise processed together whenever practicable. However, the amount of the State tax and the amount of the Municipal Retailers' Occupation Tax must be claimed separately and separate credit memoranda will be issued if such claims are approved.

e) Use of Credit Memoranda

1) The State Retailers' Occupation Tax or Use Tax credit memorandum may be used by the claimant or his authorized assignee only to pay State tax liability and may not be used to pay any Municipal Retailers' Occupation Tax liability. Conversely, a Municipal Retailers' Occupation Tax credit memorandum may not be used to pay a State tax liability and a Municipal Retailers' Occupation Tax credit memorandum may not be used to pay a County Retailers' Occupation Tax liability.

2) Since each municipality's Retailers' Occupation Tax is separate from every other municipality's Retailers' Occupation Tax, any given credit memorandum for the erroneous payment of a municipality's Retailers' Occupation Tax may be used by the claimant or his authorized assignee only to pay further municipal tax liability. (Municipal Retailers' Occupation Tax or Municipal Service Occupation Tax) due to that particular municipality.

d) Prohibition Against Unjust Enrichment

1) A claim for a Municipal Retailers' Occupation Tax cannot be sustained unless the claimant establishes (among other things) that he has borne the burden of such Municipal Retailers' Occupation Tax in the first instance or that he has unconditionally repaid such amount to his vendee to whom he had shifted the burden of such amount, and (in the latter event) that such vendee did not shift the burden of such amount to his customer or has unconditionally repaid such amount to his customer.

2) The incorporation of Section 6 of the Illinois Retailers' Occupation Tax Act into the Municipal Retailers' Occupation Tax Act by reference carries with it the principle against unjust enrichment provided for with respect to the Illinois Retailers' Occupation Tax when a claim for credit of that kind of tax is disposed of in accordance with Section 6 of the Illinois Retailers' Occupation Tax Act.

e) Refunds

1) In hardship cases (in cases in which the claimant cannot use a credit memorandum and so probably would have to sell it at a loss) the Department will award the claimant a refund rather than a credit memorandum. The two most likely situations where this would be the case are the situation in which the claimant has discontinued business and the situation in which the claimant will have a small volume of liability to the Department in the foreseeable future but receives a large credit memorandum

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~~which it therefore might take the claimant a long time to liquidate by using it to pay current taxes.~~

- 2) ~~Whenever the Department determines that a refund should be made to a claimant instead of issuing a credit memorandum, the Department will notify the Comptroller, who will cause the order to be drawn for the amount specified, and to the person named, in such notification from the Department. Such refund shall be paid by the State Treasurer out of the Municipal Retailers' Occupation Tax fund.~~

If a claimant files a claim for refund on a transaction which was subject to State and local taxes administered by the Department, the claim need not be filed separately for each type of tax. A single claim for the total of all applicable taxes will suffice. The claim will be audited, heard, or otherwise processed as a single claim whenever possible. A single credit memorandum will be issued which may be used by a claimant or his authorized assignee to pay State or local tax liability.

(Source: Amended at ____ Ill. Reg. _____, effective _____)

Section 270.115 Jurisdictional Questions

- a) Mere Solicitation of Orders Not Doing Business

- 1) For a seller to incur Home Rule Municipal Retailers' Occupation Tax liability in a given home rule municipality, the sale must be made in the course of such seller's engaging in the retail business within such home rule municipality. In other words, enough of the selling activity must occur within the home rule municipality to justify concluding that the seller is engaged in business within the home rule municipality with respect to that sale.

- 2) For example, the Supreme Court has held the mere solicitation and receipt of orders within a taxing jurisdiction (the State), where such orders were subject to acceptance outside the taxing jurisdiction and title passed outside such jurisdiction, with the goods being shipped from outside such jurisdiction to the purchaser in such jurisdiction, did not constitute engaging in the business of selling within such jurisdiction. This conclusion was reached independently of any question of interstate commerce and so would apply to a home rule municipality as the taxing jurisdiction as much as to the State as the taxing jurisdiction.

- b) Seller's Acceptance of Order

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- 1) Without attempting to anticipate every kind of fact situation that may arise in this connection, it is the Department's opinion, that the seller's acceptance of the purchase order or other contracting action in the making of the sales contract is the most important single factor in the occupation of selling. If the purchase order is accepted at the seller's place of business within the municipality or by someone who is working out of such place of business and who does not conduct the business of selling elsewhere within the meaning of Sections (f) and (g) of this Section, or if a purchase order which is an acceptance of the seller's complete and unconditional offer to sell is received by the seller's place of business within the home rule municipality or by someone working out of such place of business, the seller incurs Home Rule Municipal Retailers' Occupation Tax liability in that home rule municipality if the sale is at retail and the purchaser receives the physical possession of the property in Illinois.

- 2) The Department will assume that the seller has accepted the purchase order at the place of business at which the seller receives such purchase order from the purchaser in the absence of clear proof to the contrary.

- 3) Regardless of the place at which the purchase order is accepted, where tangible personal property is located within a home rule municipality at the time of its sale (or is subsequently produced in Illinois), then delivered in Illinois to the purchaser, and no other home rule municipality, non-home rule municipality or home rule county in this State would receive or would have the power to impose Home Rule Municipal, Non-Home Rule Municipal or Home Rule County Retailers' Occupation Tax with respect to such sale, the place where the property is located at the time of the sale (or subsequent production in Illinois) will determine where the seller is engaged in business for Home Rule Municipal Retailers' Occupation Tax purposes with respect to such sale.

- c) Some Considerations Which Are Not Controlling

- 1) Delivery of the property within the municipality to the purchaser is not necessary for the seller to incur Home Rule Municipal Retailers' Occupation Tax liability. It is sufficient that the purchaser receives the physical possession of the property somewhere in Illinois as far as the question of delivery is concerned. This is true because there is no exemption for interstate commerce comparable to the exemption arising from interstate commerce, and it is not necessary for delivery

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1) For the purpose of determining the local governmental unit whose tax is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth.

2) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.

3) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to ~~railroads or other~~ carriers, other than a common carrier by rail, for their own use outside Illinois if the purchasing carrier takes delivery of the property in Illinois and transports it over its own line to an out-of-State destination.

4) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the user, and the Home Rule Municipal, Non-Home Rule Municipal or Home Rule County Retailers' Occupation Tax on that sale will go to the home rule municipality, non-home rule municipality or home rule county where the retailer is located. ~~This Subsection (g) is effective September 17, 1973.~~

(Source: Amended at Ill. Reg. _____, effective _____)

Section 270.120 Incorporation of Retailers' Occupation Tax Regulations by Reference

To avoid needless repetition, the substance and provisions of all Retailers' Occupation Tax Regulations (86 Ill. Adm. Code 130), ~~whether characterized as Rules, Articles or by some other designation, which are now in effect or which may hereafter be amended or promulgated, except Subpart A as it pertains to rate, Subpart B as it pertains to the deduction for collecting tax, Subpart C as it pertains to use of a credit memorandum to discharge any State or municipal tax liability, are incorporated herein by reference and made a part hereof.~~

(Source: Amended at Ill. Reg. _____, effective _____)

Section 270.125 Penalties, Interest and Procedures

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to be completed within the home rule municipality for the seller to be regarded as being engaged in the business of selling within such home rule municipality with respect to that sale.

2) The point at which the tangible personal property will be used or consumed and the place at which the purchaser resides are also immaterial in determining whether or not the seller incurs Home Rule Municipal Retailers' Occupation Tax liability. Furthermore, the place at which the technical sale occurs (i.e., the place at which title passes) is not a decisive consideration since the phrase IN THE MUNICIPALITY in the Home Rule Municipal Retailers' Occupation Tax Act refers only to the location of the occupation of selling that is being taxed and not to the place where sales may be made.

d) Place of Business Where Long Term or Blanket Contracts are Involved

Under a long term blanket or master contract which (though definite as to price and quantity) must be implemented by the purchaser's placing of specific orders when goods are wanted, the seller's place of business with which such subsequent specific orders are placed (rather than the place where the seller signed the master contract) will determine where the seller is engaged in business for Home Rule Municipal Retailers' Occupation Tax purposes with respect to such orders.

e) Sales Through Vending Machines

The seller's place of engaging in business when making sales through a vending machine is the place where the vending machine is located when such sales are made.

f) Sales From Vehicles Carrying Uncommitted Stock of Goods

The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously accepted orders, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which such sales and deliveries happen to be made -- the vehicle carrying such stock of goods for sale being regarded as a portable place of business.

g) Sales of Coal or Other Minerals

¹ See Standard Oil Company vs. Department of Finance et al, 383 Ill. 136, for a similar problem under the Illinois Retailers' Occupation Tax Act.

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All penalties (both civil and criminal), provisions concerning interest and procedures (such as the making of assessments, the venue and mode of conducting hearings, subpoenas, matters pertaining to judicial review and other procedural subjects), together with statutes of limitation, are the same under the Home Rule Municipal Retailers' Occupation Tax Act as under the Illinois Retailers' Occupation Tax Act (Ill. Rev. Stat. 1979 1989, ch. 120, pars. 440 et seq.).

(Source: Amended at ____ Ill. Reg. ____, effective ____)

Section 270.130 Effective Date

~~When a given Municipal Retailers' Occupation Tax goes into effect, it applies to sales made in the course of the seller's engaging in the business-tangible personal property at retail within the taxing municipality on or after the effective date of the ordinance imposing such tax. An ordinance or resolution imposing or discontinuing or effecting a change in the rate of a Home Rule Municipal Retailers' Occupation Tax shall be adopted and a certified copy thereof filed with the Department on or before the first day of June, whereupon the Department shall proceed to administer and enforce the ordinance or resolution as of the first day of September next following such adoption and filing. For this purpose, the date of the sale is deemed to be the date of the delivery of the property. The same rule applies when determining the effective date of an increase in the rate of a Municipal Retailers' Occupation Tax.~~

(Source: Amended at ____ Ill. Reg. ____, effective ____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULES

1) Heading of Part: Casey Municipal Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 27

3) Section Numbers: Proposed Action:

27.10	New Section
27.20	New Section
27.30	New Section
27.40	New Section
27.50	New Section
27.60	New Section
27.70	New Section
27.80	New Section
27.90	New Section
27.100	New Section
27.110	New Section
27.120	New Section
27.130	New Section
27.140	New Section
EXHIBIT A	

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 15 1/2, par. 48.17

5) A complete description of the subjects and issues involved:

This Part provides for the establishment of an airport hazard area in the vicinity of the Casey Municipal Airport. This Part provides for the safety of aircraft and persons on the ground by governing surfaces and height limitations in respect to structures erected or altered in the vicinity of the airport.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference?

No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives:

Rules do not affect units of local government.

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11) Time, place, and manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

Mr. Valjean Smith
Assistant Chief Counsel
Department of Transportation
Division of Aeronautics
One Langhorne Bond Drive, Capital Airport
Springfield, Illinois 62706
(217) 785-5831

Comments received within thirty days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

Rules do not affect small businesses.

The full text of the Proposed Rule(s) begins on the next page:

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NOTICE OF PROPOSED RULES

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 27
CASEY MUNICIPAL AIRPORT
HAZARD ZONING

Section

27.10 Introduction
27.20 Definitions
27.30 Surfaces and Height Limitations
27.40 Use Restrictions
27.50 Non-Conforming Uses
27.60 Permits
27.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
27.80 Variances
27.90 Notice of Construction or Alteration
27.100 Enforcement
27.110 Appeal and Judicial Review
27.120 Penalties
27.130 Conflicting Regulations
27.140 Severability
EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15 1/2, par. 48.17).

SOURCE: Adopted at 14 Ill. Reg. —, effective —.

NOTE: Capitalization denotes statutory language.

Section 27.10 Introduction

a) This Part regulates and restricts the height of structures and trees, and otherwise regulates the use of property in the vicinity of the Casey Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Casey Municipal Airport zoning map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond

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"Airport Elevation" - The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 654 feet above mean sea level (AMSL).

"Airport Hazard" - ANY STRUCTURE, TREE, OR USE OF LAND WHICH OBSTRUCTS THE AIRSPACE REQUIRED FOR, OR IS OTHERWISE HAZARDOUS TO THE FLIGHT OF AIRCRAFT IN LANDING OR TAKING-OFF AT THE AIRPORT. (Section 3 of the Act)

"Airport Reference Point" - The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 39° 18' 11.0" N and Longitude 88° 00' 18.0" W.

"Alteration" - Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" - These surfaces are defined in Section 27.30.

"Circling Approach Area" - That obstacle clearance area which shall be considered for aircraft maneuvering to land on a runway which is not aligned with the final approach course of the approach procedure.

"Construction" - The erection or alteration of any structure either of a permanent or temporary character.

"Department" - The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Departure Area" - That area which begins at the departure end of the runway and has a beginning width of 1000' (500' from centerline). The area splays 150' on each side of the extended runway centerline for a distance of 2 Nautical Miles (NM). Additionally, it includes a second surface that extends radially from a point on the runway centerline located 2,000' from the start end of the runway and extends the distance necessary to provide a 40:1 obstacle identification surface to reach the minimum altitudes authorized for en route operations.

"Final Approach Segment" - That area of an approach

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Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

b) This Part is adopted at the request of the City of Casey, as owner and operator of Casey Municipal Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1989, ch. 15 1/2, pars. 48.1 et seq.). IT IS HEREBY FOUND THAT AN AIRPORT HAZARD ENDANGERS THE LIVES AND PROPERTY OF USERS OF Casey Municipal Airport AND OF OCCUPANTS OF LAND OR PROPERTY IN ITS VICINITY, AND ALSO, IF OF THE OBSTRUCTION TYPE, IN EFFECT REDUCES THE SIZE OF THE AREA AVAILABLE FOR THE LANDING, TAKING-OFF AND MANEUVERING OF AIRCRAFT, THUS TENDING TO DESTROY OR IMPAIR THE UTILITY OF Casey Municipal Airport AND THE PUBLIC INVESTMENT THEREIN.

1) ACCORDINGLY, IT IS DECLARED:

- A) THAT THE CREATION OR ESTABLISHMENT OF AN AIRPORT HAZARD IS A PUBLIC NUISANCE AND AN INJURY TO THE region SERVED BY Casey Municipal Airport;
 - B) THAT IT IS NECESSARY IN THE INTEREST OF THE PUBLIC HEALTH, PUBLIC SAFETY AND GENERAL WELFARE THAT THE CREATION OR ESTABLISHMENT OF AIRPORT HAZARDS BE PREVENTED; AND
 - C) that the prevention of these hazards SHOULD BE ACCOMPLISHED TO THE EXTENT LEGALLY POSSIBLE, BY THE EXERCISE OF THE POLICE POWER, WITHOUT COMPENSATION.
- 2) IT IS FURTHER DECLARED THAT BOTH THE PREVENTION OF THE CREATION OR ESTABLISHMENT OF AIRPORT HAZARDS AND THE ELIMINATION, REMOVAL, ALTERATION, MITIGATION, OR MARKING AND/OR LIGHTING OF EXISTING AIRPORT HAZARDS ARE PUBLIC PURPOSES FOR WHICH POLITICAL SUBDIVISIONS MAY RAISE AND EXPEND PUBLIC FUNDS AND ACQUIRE LAND or interests in land. (Section 11 of the Act)

Section 27.20 Definitions

As used in this Part, unless the context otherwise requires:

"Airport" - The Casey Municipal Airport located near Casey, situated in Section 19, Township 10 North, Range 14 East of the Second Principal Meridian, Clark County, Illinois; also known as Casey Municipal Airport.

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where the aircraft makes final alignment and descent for landing.

"Flight Safety Coordinator" - An employee of the Department whose duties include, but are not limited to inspection of airports, review of complaints concerning uses of property in the vicinity of airports and the inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

"Height" - The overall height of the top of a structure including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Initial Approach Segment" - That area of an instrument approach between a point where aircraft departs the enroute phase of flight and is maneuvering to enter an intermediate segment. Such approach segments may be made along an arc, radial, course, heading, radar vector or a combination of thereof.

"Intermediate Approach Segment" - That area of an approach between the initial and final approach segments where the aircraft adjusts configuration, speed and positioning along positive course guidance such as radial or course.

"Landing Area" - The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Minimum Instrument Flight Altitude" - An altitude established for instrument flight between radio fixes that provides obstacle clearance over the terrain and manmade objects and adequate for navigational performance and communications requirements.

"Non-Conforming Use" - Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" - A runway having an existing instrument approach utilizing air navigation

facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Obstacle Clearance" - The vertical distance between the lowest authorized flight altitudes and a prescribed surface within a specified area.

"Permit" - A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 27.60 of this Part.

"Person" - An INDIVIDUAL, FIRM, partnership, CORPORATION, COMPANY, ASSOCIATION, JOINT STOCK ASSOCIATION, OR BODY POLITIC, and includes a TRUSTEE, RECEIVER, ASSIGNEE, administrator, executor, guardian, OR OTHER REPRESENTATIVE, AND INCLUDING THIS STATE and the Division of Aeronautics. (Section 7 of the Act)

"Political Subdivision" - ANY MUNICIPALITY, CITY, INCORPORATED TOWN, VILLAGE, COUNTY, TOWNSHIP, DISTRICT, OR AUTHORITY, OR ANY COMBINATION OF TWO OR MORE THEREOF, situated in whole or in part within any of the surfaces established by Section 27.30. (Section 6 of the Act)

"Precision Instrument Runway" - A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

"Runway" - An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" - A numerical expression of a stated relationship of height to horizontal distance, e.g. 100

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to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" - THE STATE OF ILLINOIS. (Section 8 of the Act)

"Structure" - Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Terminal Obstacle Clearance Area" - That area near an airport that contains the initial, intermediate and final approach segments, circling and departure areas which are a part of an instrument approach procedure.

"Tree" - Any object of natural growth.

"Utility Runway" - A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" - A grant of relief by the Department from the requirements of this Part, in accordance with Section 27.80.

"Visibility Minimums" - The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" - A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

Section 27.30 Surfaces and Height Limitations

- a) Establishment and Creation
- 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary

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surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

- 2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C) for Casey Municipal Airport prepared by Casler, Houser & Hutchison, Inc., Jacksonville, Ill. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

- 3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.

- 4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

b) Horizontal Surface

- 1) A horizontal plane 150 feet above the established airport elevation of 654 feet Above Mean Sea Level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - A) 5,000 feet for all runways designated as utility or visual;
 - B) 10,000 feet for all other runways.

- 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for

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and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

- A) 1,250 feet for that end of a utility runway with only visual approaches;
- B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;
- C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;
- D) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;
- E) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
- F) 16,000 feet for precision instrument runways.

2)

- A) The approach surface extends for a horizontal distance of:
5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;
- B) 10,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and
- C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

f) Transitional Surface - These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation

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either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface
1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

d) Primary Surface longitudinally centered on a runway.

1) When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

- A) 250 feet for utility runways having only visual approaches;
- B) 500 feet for utility runways having non-precision instrument approaches;
- C) For other than utility runways, the width is:
i) 500 feet for visual runways having only visual approaches;
- ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute miles;
- iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

e) Approach Surface - A surface longitudinally centered on the extended runway centerline and extending outward

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which is 654 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

- g) Circling Approach Surface - This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Casey Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.

- h) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

- i) Excepted Height Limitations - Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

Section 27.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

- a) Electrical or Electronic Interference
 - 1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.
 - 2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.
- b) Flashing or Illuminated Structures
 - 1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.
 - 2) In determining whether such a hazard exists, a

Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

- 1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

- 2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 27.50 Non-Conforming Uses

- a) Regulations Not Retroactive - Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any non-conforming use. Nothing contained in this Part shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part and is diligently prosecuted.

- b) Marking and Lighting
 - 1) Notwithstanding the provisions of subsection (a), the owner of any existing non-conforming structure is required to permit the installation, operation and maintenance of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport

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hazards, all to be performed at the expense of the City of Casey.

2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 27.60 Permits

a) Future Uses - Except as specifically provided in subsections (1), (2), and (3), no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface created unless a permit shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this Part. If such determination is in the affirmative, the permit shall be granted.

1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when, because of terrain, land contour or topographic features such tree or structure, would extend above the height limits prescribed for such surface.

2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

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3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 27.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

Whenever the Department following a Flight Safety Coordinator's personal inspection, observation and estimation, DETERMINES THAT A NON-CONFORMING STRUCTURE or use or tree HAS BEEN ABANDONED OR MORE THAN 80 PER CENT demolished, DESTROYED, physically DETERIORATED, OR DECAYED:

a) NO PERMIT SHALL BE GRANTED by the Department THAT WOULD ALLOW SUCH STRUCTURE or use or tree TO EXCEED THE APPLICABLE HEIGHT LIMIT OR OTHERWISE DEVIATE FROM these ZONING REGULATIONS; AND

b) WHETHER APPLICATION IS MADE FOR A PERMIT, OR NOT, THE DEPARTMENT MAY issue an order pursuant to subsection (c), in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling the OWNER OF THE NON - CONFORMING STRUCTURE or use or tree, AT HIS OWN EXPENSE, TO LOWER, REMOVE, RECONSTRUCT, OR EQUIP SUCH structure or use or tree AS MAY BE NECESSARY TO CONFORM TO these zoning REGULATIONS. IF THE OWNER OF THE NON-CONFORMING STRUCTURE or use or tree SHALL NEGLECT OR REFUSE TO COMPLY WITH SUCH ORDER within ten DAYS AFTER NOTICE THEREOF, THE DEPARTMENT MAY PROCEED TO HAVE such structure or use or tree SO LOWERED, REMOVED, RECONSTRUCTED OR EQUIPPED AND SHALL HAVE A LIEN, ON BEHALF OF THE STATE, UPON THE LAND WHEREON IT IS OR WAS LOCATED, IN THE AMOUNT OF THE COST AND EXPENSE THEREOF. SUCH LIEN MAY BE ENFORCED BY THE DEPARTMENT ON BEHALF OF THE STATE BY suit in equity FOR THE ENFORCEMENT THEREOF AS IN THE CASE OF OTHER LIENS. (Section 23 of the Act)

c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree

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interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 27.80 Variances

- a) General - ANY PERSON wishing to erect or increase the height of ANY STRUCTURE, OR PERMIT any GROWTH, OR USE HIS PROPERTY not in accordance with these ZONING REGULATIONS, MAY APPLY TO THE DEPARTMENT FOR A VARIANCE FROM these ZONING REGULATIONS. SUCH VARIANCES SHALL BE ALLOWED WHERE it is found that A LITERAL APPLICATION OR ENFORCEMENT OF these ZONING REGULATIONS WOULD RESULT IN PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP AND THE RELIEF GRANTED WOULD NOT BE CONTRARY TO THE PUBLIC INTEREST BUT WOULD DO SUBSTANTIAL JUSTICE AND BE IN ACCORDANCE WITH THE SPIRIT OF these ZONING REGULATIONS. (Section 24 of the Act)
- b) Marking and Lighting - Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.
- c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 27.90 Notice of Construction or Alteration

- a) Construction or Alteration Requiring Notice - The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established by Section 27.30 with respect to Casey Municipal Airport:
- 1) Any construction or alteration of more than 200

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- feet in height above the ground level at its site.
- 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:
- A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.
- B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.

- 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subsection (a)(1) or (a)(2).
- 4) Any construction or alteration that would exceed a standard of the Act or this Part.
- b) Construction or Alteration Not Requiring Notice - No person is required to notify the Department for any of the following construction or alterations with respect to Casey Municipal Airport:

- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.
- 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.
- 3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with

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Part; or
D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 27.100 Enforcement

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part, to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 27.110 Appeal and Judicial Review

- a) APPEAL - ANY PERSON AGGRIEVED BY ANY DECISION OF THE DEPARTMENT MADE IN ADMINISTRATION OF THIS PART MAY APPLY TO THE DEPARTMENT TO REVERSE, WHOLLY OR PARTLY, OR MODIFY, OR OTHERWISE CHANGE, ABROGATE OR RESCIND ANY SUCH DECISION. THE PROCEDURE PRESCRIBED BY THE ACT FOR PROCEEDINGS BEFORE BOARD OF APPEAL SHALL GOVERN SUCH APPLICATION TO THE DEPARTMENT. (Section 29 of the Act)
- b) Judicial Review - Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Clark County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, The Administrative Review Law (Ill. Rev. Stat. 1989, ch. 110, pars. 3-101 et seq.).

Section 27.120 Penalties

Each violation of this Part or of ANY REGULATIONS, ORDERS, OR RULINGS PROMULGATED hereunder shall constitute an airport hazard and a PETTY OFFENSE, and such hazard shall be removed by proper legal proceedings and EACH DAY A VIOLATION CONTINUES TO EXIST SHALL CONSTITUTE A SEPARATE OFFENSE. IN ADDITION, THE DEPARTMENT MAY INSTITUTE IN THE Circuit Court of Clark County, Illinois, or CIRCUIT COURT OF ANY COUNTY IN WHICH THE AIRPORT HAZARD is wholly or partly located, AN ACTION TO PREVENT AND RESTRAIN, CORRECT OR ABATE, ANY VIOLATION OF these ZONING REGULATIONS, OR OF ANY regulation, ORDER OR RULING MADE IN CONNECTION WITH THEIR ADMINISTRATION OR ENFORCEMENT, AND THE COURT SHALL ADJUDGE SUCH RELIEF BY WAY OF INJUNCTION (WHICH MAY BE MANDATORY) OR OTHERWISE, AS MAY BE PROPER UNDER ALL THE FACTS AND CIRCUMSTANCES OF THE CASE, IN ORDER FULLY TO EFFECTUATE THE PURPOSES OF these zoning REGULATIONS as ADOPTED AND ORDERS AND RULINGS MADE PURSUANT THERETO. (Section 34 of the Act)

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aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.

- c) Form and Time of Notice
1) Each person who is required to notify the Department under subsection (a) shall forward one executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.
- 2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.
- 3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five days. For example, an emergency could include breaks in sewer lines, gas mains or power lines.
- d) Acknowledgment of Notice
1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) within 30 days of receipt of such notice.
- 2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:
A) Would under federal rules require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1, as provided in 14 CFR 77.11 (b)(3), January 1, 1990, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or
B) Would not exceed any standard of the Act or this Part; or
C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this

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Section 27.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 27.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

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Section 27.Exhibit A Proposed Construction Permit Request

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Division of Aeronautics

Name of Individual or Company
Making Request
Address

Street City Zip Phone

Nature and Description of Proposed Structure:

} New Construction
} Alteration
Nearest Town:

Location from Nearest Town

Direction } Distance

Nearest Airport:
From Nearest Point
to a Runway

Direction } Distance

Latitude } Longitude

0 ' " ' " ' "

Proposed Heights and Elevations

Site Elevation (Mean Sea Level)

Highest Point of Structure Above Ground

Overall Height above Mean Sea Level

Estimated Construction Starting Date

Estimated Construction Completion Date

Type of Structure:

Will Structure be Obstruction Lighted:

Will Structure be Obstruction Marked:

Remarks:

Permanent

Temporary

Yes

No

Date:

Title or Position:

Signature

The Illinois Department of Transportation is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Section 1 of the Airport Zoning Act (Ill. Rev. Stat. 1987, ch. 15 1/2, par. 48.1). Disclosure of this information is REQUIRED. Failure to provide any information will result in denial of the construction permit. This form has been approved by the Forms Management Center.
DA-39 (Rev. 1-87) IL 494-0765

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Rules do not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

Mr. Valjean Smith
Assistant Chief Counsel
Department of Transportation
Division of Aeronautics
One Langhorne Bond Drive, Capital Airport
Springfield, Illinois 62706
(217) 785-5831

Comments received within thirty days of the date of publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

Rules do not affect small businesses.

The full text of the Proposed Rule(s) begins on the next page:

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1) Heading of Part: Lewis University Airport Hazard Zoning

2) Code Citation: 92 Ill. Adm. Code 57

3) Section Numbers: Proposed Action:

57.10	New Section
57.20	New Section
57.30	New Section
57.40	New Section
57.50	New Section
57.60	New Section
57.70	New Section
57.80	New Section
57.90	New Section
57.100	New Section
57.110	New Section
57.120	New Section
57.130	New Section
57.140	New Section
EXHIBIT A	

4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 15 1/2, par. 48.17

5) A complete description of the subjects and issues involved:

This Part provides for the establishment of an airport hazard area in the vicinity of the Lewis University Airport near Lockport, Illinois. This Part provides for the safety of aircraft and persons on the ground by governing surfaces and height limitations in respect to structures erected or altered in the vicinity of the airport.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference?

No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives:

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TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICS

PART 57

LEWIS UNIVERSITY AIRPORT
HAZARD ZONING

Section

- 57.10 Introduction
- 57.20 Definitions
- 57.30 Surfaces and Height Limitations
- 57.40 Use Restrictions
- 57.50 Non-Conforming Uses
- 57.60 Permits
- 57.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
- 57.80 Variances
- 57.90 Notice of Construction or Alteration
- 57.100 Enforcement
- 57.110 Appeal and Judicial Review
- 57.120 Penalties
- 57.130 Conflicting Regulations
- 57.140 Severability

EXHIBIT A Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15 1/2, par. 48.17).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

Section 57.10 Introduction

- a) This Part regulates and restricts the height of structures and trees, and otherwise regulates the use of property in the vicinity of the Lewis University Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Lewis University Airport zoning map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond

Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

- b) This Part is adopted at the request of The Joliet Regional Port District, as owner and operator of Lewis University Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1989, ch. 15 1/2, pars. 48.1 et seq.). IT IS HEREBY FOUND THAT AN AIRPORT HAZARD ENDANGERS THE LIVES AND PROPERTY OF USERS OF Lewis University Airport AND OF OCCUPANTS OF LAND OR PROPERTY IN ITS VICINITY, AND ALSO, IF OF THE OBSTRUCTION TYPE, IN EFFECT REDUCES THE SIZE OF THE AREA AVAILABLE FOR THE LANDING, TAKING-OFF AND MANEUVERING OF AIRCRAFT, THUS TENDING TO DESTROY OR IMPAIR THE UTILITY OF Lewis University Airport AND THE PUBLIC INVESTMENT THEREIN.

1) ACCORDINGLY, IT IS DECLARED:

- A) THAT THE CREATION OR ESTABLISHMENT OF AN AIRPORT HAZARD IS A PUBLIC NUISANCE AND AN INJURY TO THE region SERVED BY Lewis University Airport;
- B) THAT IT IS NECESSARY IN THE INTEREST OF THE PUBLIC HEALTH, PUBLIC SAFETY AND GENERAL WELFARE THAT THE CREATION OR ESTABLISHMENT OF AIRPORT HAZARDS BE PREVENTED; AND
- C) that the prevention of these hazards SHOULD BE ACCOMPLISHED TO THE EXTENT LEGALLY POSSIBLE, BY THE EXERCISE OF THE POLICE POWER, WITHOUT COMPENSATION.
- 2) IT IS FURTHER DECLARED THAT BOTH THE PREVENTION OF THE CREATION OR ESTABLISHMENT OF AIRPORT HAZARDS AND THE ELIMINATION, REMOVAL, ALTERATION, MITIGATION, OR MARKING AND/OR LIGHTING OF EXISTING AIRPORT HAZARDS ARE PUBLIC PURPOSES FOR WHICH POLITICAL SUBDIVISIONS MAY RAISE AND EXPEND PUBLIC FUNDS AND ACQUIRE LAND or interests in land. (Section 11 of the Act)

Section 57.20 Definitions

As used in this Part, unless the context otherwise requires:

"Airport" - The Lewis University Airport located near Lockport, in the West 1/2 of Section 15, the Northeast 1/4, and the Southeast 1/4 of the Northwest 1/4 of Section 16, Township 36 North, Range 10 East of the

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Third Principal Meridian, Will County, Illinois.

"Airport Elevation" - The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 672 feet above mean sea level (AMSL).

"Airport Hazard" - ANY STRUCTURE, TREE, OR USE OF LAND WHICH OBSTRUCTS THE AIRSPACE REQUIRED FOR, OR IS OTHERWISE HAZARDOUS TO THE FLIGHT OF AIRCRAFT IN LANDING OR TAKING-OFF AT THE AIRPORT. (Section 3 of the Act)

"Airport Reference Point" - The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 41° 36' 29" N and Longitude 88° 05' 48" W.

"Alteration" - Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" - These surfaces are defined in Section 57.30.

"Circling Approach Area" - That obstacle clearance area which shall be considered for aircraft maneuvering to land on a runway which is not aligned with the final approach course of the approach procedure.

"Construction" - The erection or alteration of any structure either of a permanent or temporary character.

"Department" - The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Departure Area" - That area which begins at the departure end of the runway and has a beginning width of 1000' (500' from centerline). The area splay 150 on each side of the extended runway centerline for a distance of 2 Nautical Miles (NM). Additionally, it includes a second surface that extends radially from a point on the runway centerline located 2,000' from the start end of the runway and extends the distance necessary to provide a 40:1 obstacle identification surface to reach the minimum altitudes authorized for en route operations.

"Final Approach Segment" - That area of an approach

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where the aircraft makes final alignment and descent for landing.

"Flight Safety Coordinator" - An employee of the Department whose duties include, but are not limited to inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

"Height" - The overall height of the top of a structure including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Initial Approach Segment" - That area of an instrument approach between a point where aircraft departs the enroute phase of flight and is maneuvering to enter an intermediate segment. Such approach segments may be made along an arc, radial, course, heading, radar vector or a combination of thereof.

"Intermediate Approach Segment" - That area of an approach between the initial and final approach segments where the aircraft adjusts configuration, speed and positioning along positive course guidance such as radial or course.

"Landing Area" - The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Minimum Instrument Flight Altitude" - An altitude established for instrument flight between radio fixes that provides obstacle clearance over the terrain and manmade objects and adequate for navigational performance and communications requirements.

"Non-Conforming Use" - Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" - A runway having an existing instrument approach utilizing air navigation

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facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service, military airport planning document.

"Obstacle Clearance" - The vertical distance between the lowest authorized flight altitudes and a prescribed surface within a specified area.

"Permit" - A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 57.60 of this Part.

"Person" - An INDIVIDUAL, FIRM, partnership, CORPORATION, COMPANY, ASSOCIATION, JOINT STOCK ASSOCIATION, OR BODY POLITIC, and includes a TRUSTEE, RECEIVER, ASSIGNEE, administrator, executor, guardian, OR OTHER REPRESENTATIVE, AND INCLUDING THIS STATE and the Division of Aeronautics. (Section 7 of the Act)

"Political Subdivision" - ANY MUNICIPALITY, CITY, INCORPORATED TOWN, VILLAGE, COUNTY, TOWNSHIP, DISTRICT, OR AUTHORITY, OR ANY COMBINATION OF TWO OR MORE THEREOF, situated in whole or in part within any of the surfaces established by Section 57.30. (Section 6 of the Act)

"Precision Instrument Runway" - A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

"Runway" - An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" - A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for

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each one foot vertically.

"State" - THE STATE OF ILLINOIS. (Section 8 of the Act)

"Structure" - Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Terminal Obstacle Clearance Area" - That area near an airport that contains the initial, intermediate and final approach segments, circling and departure areas which are a part of an instrument approach procedure.

"Tree" - Any object of natural growth.

"Utility Runway" - A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" - A grant of relief by the Department from the requirements of this Part, in accordance with Section 57.80.

"Visibility Minimums" - The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" - A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706.

Section 57.30 Surfaces and Height Limitations

a) Establishment and Creation

- 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway

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arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.

- c) Conical Surface
 - 1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.
 - 2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.

- d) Primary Surface
 - 1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
 - A) 250 feet for utility runways having only visual approaches;
 - B) 500 feet for utility runways having non-precision instrument approaches;
 - C) For other than utility runways, the width is:
 - i) 500 feet for visual runways having only visual approaches;
 - ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute miles;
 - iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

- 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.
- e) Approach Surface - A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An

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according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

- 2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. For an example of this information see 92 Ill. Adm. Code 18. Exhibits A, B and C) for Lewis University Airport prepared by Lester B. Knight & Associates, Inc., Chicago, Ill. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

- 3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.
- 4) The various surfaces are hereby established, and height limitations are hereby established for each of the surfaces, as follows:

- b) Horizontal Surface
 - 1) A horizontal plane 150 feet above the established airport elevation of 672 feet Above Mean Sea Level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - A) 5,000 feet for all runways designated as utility or visual;
 - B) 10,000 feet for all other runways.
 - 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot

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approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

- A) 1,250 feet for that end of a utility runway with only visual approaches;
- B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;
- C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;
- D) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths statute mile;
- E) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
- F) 16,000 feet for precision instrument runways.

2) The approach surface extends for a horizontal distance of:

- A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;
- B) 10,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and
- C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.

3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

- f) Transitional Surface - These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 672 feet AMSL. Transitional

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surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

- g) Circling Approach Surface - This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Lewis University Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.
- h) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.
- i) Excepted Height Limitations - Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

Section 57.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

- a) Electrical or Electronic Interference
 - 1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.
 - 2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.
- b) Flashing or Illuminated Structures
 - 1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.
 - 2) In determining whether such a hazard exists, a

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Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.

c) Smoke

- 1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.
- 2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 57.50 Non-Conforming Uses

- a) Regulations Not Retroactive - Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise interfere with the continuance of any non-conforming use. Nothing contained in this Part shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part and is diligently prosecuted.
- b) Marking and Lighting the provisions of subsection (a), Notwithstanding the provisions of subsection (a), the owner of any existing non-conforming structure is required to permit the installation, operation and maintenance of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport

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- 2) hazards, all to be performed at the expense of the Joliet Regional Port District. In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 57.60 Permits

- a) Future Uses - Except as specifically provided in subsections (1), (2), and (3), no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface created unless a permit shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this Part. If such determination is in the affirmative, the permit shall be granted.
 - 1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when, because of terrain, land contour or topographic features such tree or structure, would extend above the height limits prescribed for such surface.
 - 2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

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- 3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.
- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 57.70 Non-Conforming Structures or Uses or Trees
Abandoned or Destroyed

Whenever the Department following a Flight Safety Coordinator's personal inspection, observation and estimation, DETERMINES THAT A NON-CONFORMING STRUCTURE or use or tree HAS BEEN ABANDONED OR MORE THAN 80 PER CENT demolished, DESTROYED, physically DETERIORATED, OR DECAYED:

- a) NO PERMIT SHALL BE GRANTED by the Department THAT WOULD ALLOW SUCH STRUCTURE or use or tree TO EXCEED THE APPLICABLE HEIGHT LIMIT OR OTHERWISE DEVIATE FROM these ZONING REGULATIONS; AND
- b) WHETHER APPLICATION IS MADE FOR A PERMIT, OR NOT, THE DEPARTMENT MAY issue an order pursuant to subsection (c), in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling THE OWNER OF THE NON - CONFORMING STRUCTURE or use or tree, AT HIS OWN EXPENSE, TO LOWER, REMOVE, RECONSTRUCT, OR EQUIP SUCH structure or use or tree AS MAY BE NECESSARY TO CONFORM TO these zoning REGULATIONS. IF THE OWNER OF THE NON-CONFORMING STRUCTURE or use or tree SHALL NEGLECT OR REFUSE TO COMPLY WITH SUCH ORDER within ten DAYS AFTER NOTICE THEREOF, THE DEPARTMENT MAY PROCEED TO HAVE such structure or use or tree SO LOWERED, REMOVED, RECONSTRUCTED OR EQUIPPED AND SHALL HAVE A LIEN, ON BEHALF OF THE STATE, UPON THE LAND WHEREON IT IS OR WAS LOCATED, IN THE AMOUNT OF THE COST AND EXPENSE THEREOF. SUCH LIEN MAY BE ENFORCED BY THE DEPARTMENT ON BEHALF OF THE STATE BY suit in equity FOR THE ENFORCEMENT THEREOF AS IN THE CASE OF OTHER LIENS. (Section 23 of the Act)
- c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree

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interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 57.80 Variances

- a) General - ANY PERSON wishing to erect or increase the height of ANY STRUCTURE, OR PERMIT any GROWTH, OR USE HIS PROPERTY not in accordance with these ZONING REGULATIONS, MAY APPLY TO THE DEPARTMENT FOR A VARIANCE FROM these ZONING REGULATIONS. SUCH VARIANCES SHALL BE ALLOWED WHERE it is found that A LITERAL APPLICATION OR ENFORCEMENT OF these ZONING REGULATIONS WOULD RESULT IN PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP AND THE RELIEF GRANTED WOULD NOT BE CONTRARY TO THE PUBLIC INTEREST BUT WOULD DO SUBSTANTIAL JUSTICE AND BE IN ACCORDANCE WITH THE SPIRIT OF these ZONING REGULATIONS. (Section 24 of the Act)
- b) Marking and Lighting - Any Variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.
- c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, the type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 57.90 Notice of Construction or Alteration

- a) Construction or Alteration Requiring Notice - The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established by Section 57.30 with respect to Lewis University Airport:
- 1) Any construction or alteration of more than 200

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aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.

- c) Form and Time of Notice
- 1) Each person who is required to notify the Department under subsection (a) shall forward one executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.

- 2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.

- 3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) does not apply and the notice may be sent by telephone, teletype, or other expeditious means, with an executed Department Form No. DA-39 submitted within five days. For example, an emergency could include breaks in sewer lines, gas mains or power lines.

- d) Acknowledgment of Notice
- 1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) within 30 days of receipt of such notice.

- 2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

- A) Would under federal rules require lighting or marking standards as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1, as provided in 14 CFR 77.11 (b)(3), January 1, 1990, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or
- B) Would not exceed any standard of the Act or this Part; or
- C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this

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feet in height above the ground level at its site.
Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:

- A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.

- B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.

- 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subsection (a)(1) or (a)(2).

- 4) Any construction or alteration that would exceed a standard of the Act or this Part.

- b) Construction or Alteration Not Requiring Notice - No person is required to notify the Department for any of the following construction or alterations with respect to Lewis University Airport:

- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.

- 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

- 3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with

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- Part; or
- D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 57.100 Enforcement

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 57.110 Appeal and Judicial Review

- a) APPEAL - ANY PERSON AGGRIEVED BY ANY DECISION OF THE DEPARTMENT MADE IN ADMINISTRATION OF THIS PART MAY APPLY TO THE DEPARTMENT TO REVERSE, WHOLLY OR PARTLY, OR MODIFY, OR OTHERWISE CHANGE, ABROGATE OR RESCIND ANY SUCH DECISION. THE PROCEDURE PRESCRIBED BY THE ACT FOR PROCEEDINGS BEFORE BOARD OF APPEAL SHALL GOVERN SUCH APPLICATION TO THE DEPARTMENT. (Section 29 of the Act)
- b) Judicial Review - Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Will County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled The Administrative Review Law (Ill. Rev. Stat. 1989, ch. 110, pars. 3-101 et seq.).

Section 57.120 Penalties

Each violation of this Part or of ANY REGULATIONS, ORDERS, OR RULINGS PROMULGATED hereunder shall constitute an airport hazard and a PETTY OFFENSE, and such hazard shall be removed by proper legal proceedings and EACH DAY A VIOLATION CONTINUES TO EXIST SHALL CONSTITUTE A SEPARATE OFFENSE. IN ADDITION, THE DEPARTMENT MAY INSTITUTE IN THE Circuit Court of Will County, Illinois, or CIRCUIT COURT OF ANY COUNTY IN WHICH THE AIRPORT HAZARD is wholly or partly LOCATED, AN ACTION TO PREVENT and RESTRAIN, CORRECT OR ABATE, ANY VIOLATION OF these ZONING REGULATIONS, OR OF ANY regulation, ORDER OR RULING MADE IN CONNECTION WITH THEIR ADMINISTRATION OR ENFORCEMENT, AND THE COURT SHALL ADJUDGE SUCH RELIEF BY WAY OF INJUNCTION (WHICH MAY BE MANDATORY) OR OTHERWISE, AS MAY BE PROPER UNDER ALL THE FACTS AND CIRCUMSTANCES OF THE CASE, IN ORDER FULLY TO EFFECTUATE THE PURPOSES OF these zoning REGULATIONS as ADOPTED AND ORDERS AND RULINGS MADE PURSUANT THERETO. (Section 34 of the Act)

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Section 57.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 57.140 Severability

If any of the provisions of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to this end, the provisions of this Part are declared to be severable.

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NOTICE OF ADOPTED AMENDMENTS

required testing for U.S. Sanitation Monitored Flocks which involves quarterly testing of the environment. This change complements the changes occurring in the Diseased Animals proposed rulemaking where *Salmonella enteritidis* serotype *enteritidis* has been declared a communicable disease.

We are deleting the differential pseudorabies test as this test is now the only test we will be doing for herds using vaccine. Thus, such test is the mandatory test under Section 110.30(a) for pseudorabies. We eliminated using the SN test as a preliminary screen for all vaccinated animals as the SN tests were positive, but the animals negative under the differential test for vaccine titers.

We have added two tests which are being requested on water. The charge for such tests will be the same charge we currently charge for any of the other water tests.

16) Information and questions regarding these adopted amendments shall be directed to:

Name: Donna Garman
Address: Division of Administrative Services, Illinois
Department of Agriculture, Agriculture Building, State
Fairgrounds, Springfield, Illinois 62794-9281
Telephone: (217) 785-0112

The full text of Adopted Amendments begins on the next page:

ILLINOIS REGISTER

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER 1: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 110
ANIMAL DIAGNOSTIC LABORATORY ACT

Section	
110.10	Definitions
110.20	Submitting Specimens
110.30	Payment For Laboratory Services
110.40	Tests Not Covered By Fee Schedule
110.50	Minimum Fees
110.60	Euthanasia Fees
110.70	Clinical Pathology Fees
110.80	Histopathology Fees
110.90	Microbiology Fees
110.100	Parasitology Fees
110.110	Toxicology Fees
110.120	Miscellaneous Fees
110.130	Meats Chemistry Fees

AUTHORITY: Implementing and authorized by "AN ACT authorizing the Department of Agriculture to establish animal disease laboratories" (Ill. Rev. Stat. 1989⁷, ch. 8., par. 105.11).

SOURCE: Adopted and codified at 8 Ill. Reg. 9047, effective July 1, 1984; amended at 9 Ill. Reg. 4471, effective March 22, 1985; amended at 9 Ill. Reg. 19638, effective January 1, 1986; amended at 10 Ill. 9733, effective May 21, 1986; amended at 11 Ill. Reg. 10163, effective May 15, 1987; amended at 12 Ill. Reg. 3379, effective January 25, 1988; amended at 13 Ill. Reg. 3617, effective April 15, 1989; amended at 14 Ill. Reg. 1907, effective January 19, 1990; amended at 14 Ill. Reg. 3416, effective March 1, 1990; amended at 14 Ill. Reg. 15304, effective September 10, 1990.

Section 110.40 Tests Not Covered By Fee Schedule

- No fee shall be charged for diagnostic tests required by Illinois law or programs herein listed (i.e., testing for bovine brucellosis, swine brucellosis, pullorum-typhoid, U.S. Sanitation Monitored Flocks and pseudorabies). However, a charge shall be made for requested end titers on pseudorabies, unless the testing is approved for diagnostic purposes by the United States Department of Agriculture or by the Division. A fee as

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set forth in Section 110.90 shall be charged on screening samples at the dilution of 1:2 for pseudorabies.

b) The Division shall ~~will~~ approve testing for end titers on pseudorabies ~~without charge~~ when the herd is in a special state supervised testing program.

c) See 8 Ill. Adm. Code 110.90 for information on specialty testing situations.

(Source: Amended at 14 Ill. Reg. 15304, effective September 10, 1990.)

Section 110.90 Microbiology Fees

The following are the fees for microbiology:

a) Bacteriology, Mycoplasma and Fungi

- 1) Aerobic or anaerobic culture without sensitivity testing..... 10.00 C, G
- 2) Aerobic culture with sensitivity testing..... 15.00 C, G
- 3) Anaerobic culture (includes sensitivity test)..... 15.00 C, G
- 4) Milk samples for mastitis evaluation 1-4 specimens..... 15.00 C, G
(additional specimens, each at)..... 2.00 C, G
- 5) Wisconsin mastitis test 1-10 specimens, each..... 2.00 C
(additional specimens, each at)..... 1.00 C
- 6) Leptospirosis - 6 serotypes 2.00 C, G
- 7) Microtiter test - per specimen 5.00 C, G, S
- 8) Canine brucellosis - per specimen..... 10.00 C, G
- 9) Fluorescent Antibody Test (FA)..... 3.00 G
- 10) Escherichia coli serotyping..... 4.00 C, G
- 11) Campylobacter (culture)..... 1.00 C, G
- 12) Salmonella Serotyping..... 6.00 C, G
- 13) Salmonella isolation using enrichment media..... 3.00 C, G
- 14) Hemophilus (culture)..... 2.00 C, G
- 15) Nasal Swabs--Bordetella..... 4.00 C, G
- 16) Listeria (culture)..... 4.00 C, G
- 17) Haemophilus equigenitalis (CEM)..... 3.00 C, G
- 18) Spirochetes (swine dysentery--Treponema sp.)..... 3.00 C, G

- 16) Johnes's Bacillus (first specimen)..... 5.00 C, G
(each additional specimen)..... 2.00 C, G
- 17) IDEXX PROBE 15.00 G
- 18) Prepare and Supply Transport Media (per tube)..... 1.00 C, G
- 19) Return culture for bacterin production per organism..... 2.00 C, G
- 20) Mycology Testing..... 6.00 C, G
- 21) Microscopic examination..... 3.00 C, G
- 22) Mycoplasma Testing..... 6.00 C, G
- 23) Somatic Cell Count (1-10 specimens, each)..... 2.00 C
(Each additional specimen)..... 1.00 C
- 24) E. Coli or Metritis (1-4 specimens). 15.00 C, G
(each additional specimen)..... 2.00 C, G

b) Virology

- 1) Electron Microscopy - fecal..... 10.00 G
- 2) Pseudorabies Serology (positive or negative)..... no charge C, G
Pseudorabies Serology Out-of-State..... 3.00 C, G
Pseudorabies Serology (positive or negative) and end titer..... 3.00 C, G
Additional serology test to determine pseudorabies vaccine usage (1-10 specimens, each)..... 1.00 G
(Each additional specimen)..... .50 G
- 3) Pseudorabies Serology (request for screen at dilution of 1:2)..... 3.00 C, G
- 4) Fluorescent Antibody Test (each disease)..... 10.00 C, G
- 5) Rabies..... 5.00 C, G
- 6) Virus Isolation in Cell Culture..... 15.00 C, G
- 7) Viral Serology (each disease) (1-5 specimens, each)..... 3.00 C, G
(Each additional specimen)..... 1.00 C, G
- 8) Feline Leukemia..... 10.00 C, G
- 9) Feline Infectious Peritonitis (F.I.P.)..... 5.00 C
- 10) Canine parvo-virus (ELISA) fecal..... 5.00 C, G
- 11) Canine parvo-virus serum..... 5.00 C
- 12) Canine distemper on serum..... 5.00 C
Rota-virus on fecal..... 10.00 C

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13) Semen testing (export).....	10.00 C
14) Swine enterovirus (8 serotypes).....	12.00 C
15) FeLV-FelT.....	15.00 C
16) Porcine fetal fluid IgG.....	3.00 G
17) Feline lentivirus (FeLT).....	10.00 C
c) Chlamydia Isolation in Cell Culture.....	15.00 C, G
d) Miscellaneous serology	
1) Toxoplasmosis.....	5.00 C
2) Vibrio Agglutination Test (Campylobacter)	2.00 S
3) FIA-AGID.....	5.00 S
4) Mare Immunological Pregnancy Test (35-60 days post-service).....	15.00 C
5) Aleutian Disease-Mink (immunoelectrophoresis).....	.20 S
6) Out-of-State brucellosis serology.....	.50 C,G,S
7) Brucellosis testing other than bovine, porcine and canine.....	.50 C,G,S
8) Bluetongue (1-5 specimens, each).....	3.00 C, S
9) Bovine leukosis (1-5 specimens, each).....	3.00 C, S
10) Vesicular stomatitis.....	1.00 C, S
11) Complement Fixation Serology (1-5 specimens, each).....	3.00 C
(Each additional specimen).....	1.00 C
Note: The Complement Fixation Serology tests include testing for anaplasmosis, and chlamydia.	

(Source: Amended at 14 Ill. Reg. 15304, effective September 10, 1990)

Section 110.110 Toxicology Fees

- a) A maximum charge of \$100 shall be assessed Illinois residents. There is no maximum charge for out-of-state residents.
- b) Toxicology Work-up:
- Maximum \$50 per animal or \$100 per herd (Illinois animals)
- c) Metals

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1) Arsenic or Selenium 1-3 specimens, each.....	20.00 C
each additional specimen.....	10.00 C
2) Lead, Copper, Zinc, Thallium, Calcium, Sodium, Manganese, Potassium, Iron, Chromium, Cobalt, Nickel, or Manganese 1-3 specimens, each.....	5.00 C
each additional specimen.....	3.00 C
3) Cadmium, Molybdenum and Mercury 1-3 specimens, each.....	10.00 C
(each additional specimen).....	6.00 C
d) Insecticide Screen	
1) Organochlorines, organophosphates.....	40.00 C
2) Carbamates.....	30.00 C
3) Individual insecticide.....	20.00 C
e) Herbicides	
1) Phenoxy compounds.....	40.00 C
2) Individual analysis of any herbicide from screen.....	20.00 C
3) Herbicide screen (heterocyclic nitrogen derivatives, dinitroanilines, urea, carbamate and anilide compounds).....	50.00 C
4) Imidazole compounds.....	50.00 C
f) Rodenticides	
1) Anticoagulant screen.....	25.00 C
2) Zinc Phosphide.....	10.00 C
3) Strychnine and other alkaloids.....	10.00 C
4) Yellow Phosphorus.....	5.00 C
5) Individual anticoagulant.....	10.00 C
6) Fluoracetate (1080).....	20.00 C
g) Mycotoxins	
1) Screen (aflatoxins, T-2, DAS, Vomitoxin, Zearalenone).....	50.00 C
2) Milk or urine aflatoxin.....	20.00 C

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21) Vitamin Analysis (each).....	10.00 C
22) Feed Quality Analysis.....	30.00 C
23) Protein and moisture analysis.....	7.50 C
24) Gas chromatographic/mass spectrophotometric analysis (each sample).....	50.00 C
25) Cholinesterase: Blood (first specimen).....	7.50 C
(Each additional specimen).....	4.00 C
Brain (first specimen).....	12.50 C
(Each additional specimen).....	8.00 C
26) Drug screen.....	25.00 C
27) Sulfa residue (each sulfa drug).....	5.00 C
28) Water quality screen (CH, OP, Carbamates, Herbicides, Lead).....	100.00 C
29) Total dissolved solvents (Water).....	5.00 C
30) Specific gravity (Water).....	5.00 C

(Source: Amended at 14 Ill. Reg. 15304, effective September 10, 1990.)

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3) Ochratoxin.....	30.00 C
4) Citrinin.....	30.00 C
5) Individual analysis of any mycotoxin from screen.....	20.00 C
6) Cyclopiazonic acid (CPA).....	30.00 C
7) Blacklight for Aspergillus flavus.....	2.00 C
8) Endophyte testing Staining.....	12.50 C
Grow-out.....	15.00 C
h) Miscellaneous Analysis	
1) Feed microscopy.....	10.00 C
2) Nitrate: Ground Materials (first specimen).....	8.00 C
(each additional specimen).....	4.00 C
Forages (first specimen).....	12.00 C
(each additional specimen).....	9.00 C
On Vitreous humor.....	5.00 C
Cyanide.....	10.00 C
Cyanide (screen-picric acid).....	5.00 C
Ammonia (Urea Toxicosis) first specimen.....	10.00 C
(each additional specimen).....	5.00 C
5) Carboxyhemoglobin, Methemoglobin, Sulfahemoglobin (first specimen).....	15.00 C
(each additional specimen).....	5.00 C
6) Sulfate.....	5.00 C
7) Cresote, Petroleum Products.....	15.00 C
8) pH.....	1.00 C
9) Urea.....	10.00 C
10) Total chlorides, feeds or water.....	5.00 C
11) Monensin or other ionophore (each).....	25.00 C
12) Water chlorine.....	5.00 C
13) Water nitrate, nitrite (each).....	5.00 C
14) Water hydrogen sulfide.....	5.00 C
15) Water hardness.....	5.00 C
16) Pentachlorophenol (PCP or Penta).....	15.00 C
17) Bone--Percent Ash, Ca, Po4.....	12.00 C
18) Ca, Po4 (in feed).....	10.00 C
19) Ergot alkaloids.....	15.00 C
20) Antibiotics in feed (each).....	15.00 C

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- 1) The Heading of the Part: Diseased Animals
- 2) Code Citation: 8 Ill. Adm. Code 85
- 3) Section number: 85.115
Adopted Action:
Amended
- 4) Statutory Authority: Illinois Disease Animals Act (Ill. Rev. Stat. 1989, ch. 8, pars. 169, 170, 171, 178 and 180)
- 5) Effective Date of Amendments: September 10, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? None requiring approval under Section 6.02(b) of the Illinois Administrative Procedure Act.
- 8) Date Filed in Agency's Principal Office: September 6, 1990
- 9) Notices of Proposal Published in Illinois Register:
June 8, 1990, 14 Ill. Reg. 8768
(issue date)
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:
On the notice page, item 3, deleted "Section".
Authority sections--updated citations to "1989" edition.
Section 85.115--In paragraph (b), changed "will" to "shall".
In paragraph (d)(3), changed "must" to "shall".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? None required.
- 13) Will these amendments replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments:

The United States Department of Agriculture has declared Salmonella enteritidis serotype enteritidis as a communicable disease in poultry and has adopted rules pertaining to this disease.

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The Illinois Salmonella enteritidis Task Force has approved the proposed rules set forth in this rulemaking. The rules require infected flocks to be quarantined until the flock has been depopulated and the premises disinfected or the entire flock tests negative. The rules also regulate the movement of poultry, eggs, equipment and manure from infected or test flocks.

If funds are available, indemnity will be paid on an infected flock that is implicated in a human disease outbreak, provided the conditions set forth in the rules are followed. The criteria that will be taken into consideration when determining the amount of indemnity is also set forth.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Name: Donna Garman

Address: Division of Administrative Services, Illinois
Department of Agriculture, Agriculture Building, State
Fairgrounds, Springfield, Illinois 62794-9281

Telephone: (217) 785-0112

The full text of Adopted Amendments begins on the next page:

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 85
DISEASED ANIMALS

- Section 85.5 Definitions
85.7 Incorporation by Reference
85.10 Reportable Diseases
85.15 Truck Cleaning and Disinfection
85.20 Disposal of Sick, Diseased, or Crippled Animals at Stockyards
85.25 Sale of Livestock Quarantined Because of Disease
85.30 Identification Ear Tags for Livestock
85.35 Identification Tags Not to be Removed
85.40 Livestock for Immediate Slaughter Not to be Diverted En Route
85.45 Anthrax
85.50 Goats
85.55 Scrapie in Sheep
85.60 Bluetongue
85.65 Sheep Foot Rot (Repealed)
85.70 Cattle Scabies
85.75 Cattle Scabies -- Additional Requirements on Cattle from Certain Designated Areas
85.80 Sheep
85.85 Diseased Animals
85.90 Copy of Health Certificate Shall be Furnished
85.95 Requests for Permits
85.100 Consignments to Stockyards, Recognized Slaughtering Centers, or Marketing Centers
85.105 Obligation of Transportation Company and Truck Operators
85.110 Additional Requirements on Cattle From Designated States
85.115 Salmonella enteritidis serotype enteritidis

AUTHORITY: Implementing and authorized by the Illinois Diseased Animals Act (Ill. Rev. Stat. 19897, ch. 8, par. 168 et seq.) and Section 6 of the Illinois Bovine Brucellosis Eradication Act (Ill. Rev. Stat. 19827, ch. 8, par. 139).

SOURCE: Regulations Relating to Diseased Animals, filed January 17, 1972, effective January 27, 1972; filed August 19, 1975, effective August 29, 1975; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 12, effective June 15, 1978; amended at 3 Ill. Reg. 33, p. 337, effective August 17,

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1979; amended at 5 Ill. Reg. 724, effective January 2, 1981; codified at 5 Ill. Reg. 10456; amended at 7 Ill. Reg. 1746, effective January 28, 1983; amended at 8 Ill. Reg. 5925, effective April 23, 1984; amended at 9 Ill. Reg. 4489, effective March 22, 1985; amended at 9 Ill. Reg. 18411, effective November 19, 1985; amended at 10 Ill. Reg. 20464, effective January 1, 1987; amended at 12 Ill. Reg. 8283, effective May 2, 1988; amended at 13 Ill. Reg. 3642, effective March 13, 1989; amended at 14 Ill. Reg. 1919, effective January 19, 1990; amended at 14 Ill. Reg. 15313, effective September 10, 1990.

NOTE: Capitalization denotes statutory language.

Section 85.115 Salmonella enteritidis serotype enteritidis

a) The United States Department of Agriculture has declared Salmonella enteritidis serotype enteritidis as a communicable disease in poultry. The rules pertaining to Salmonella enteritidis serotype enteritidis located at 9 CFR 82.30-82.36 (55 FR 5576, February 16, 1990; amended at 55 FR 11888, effective February 16, 1990) are hereby adopted for the State of Illinois. The flocks affected by these regulations are those identified in 9 CFR 82.31.

b) All flocks found to be infected with Salmonella enteritidis serotype enteritidis shall be quarantined. The quarantine shall remain in effect until the flock has been depopulated and premises disinfected as prescribed in 9 CFR 82.32(c) or the entire flock is tested negative for Salmonella enteritidis serotype enteritidis in accordance with the provisions of 9 CFR 82.32(e).

c) Interstate movement of poultry, eggs, equipment and manure from infected or test flocks shall be as specified in 9 CFR 82.33. Intrastate movement requirements shall be the same as interstate movement requirements.

d) If a flock is determined to be an infected flock as defined in 9 CFR 82.32(c), the Department shall pay indemnity if State funds are available and all of the following conditions are met:

- 1) The infected flock is implicated through epidemiological evidence in a human disease outbreak;
- 2) The flock owner voluntarily agrees to depopulate with appropriate State indemnity.

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3) The entire flock which is to be depopulated shall have originated from a flock that is classified "U.S. Sanitation Monitored" under the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145 and 147, 1989);

4) The flock owner must have been feeding the infected flock in accordance with the provisions of the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145.23(d), 1989);

5) The infected flock shall be slaughtered in accordance with 9 CFR 82.33(b). Proof of kill will be reported to the Department by the meat and poultry inspector of the slaughtering establishment where the infected poultry is slaughtered;

6) The premises has been disinfected in accordance with 9 CFR 82.32(c); and

7) Replacement poultry shall be from flocks that are classified "U.S. Sanitation Monitored" under the National Poultry Improvement Plan and Auxiliary Provisions.

e) The amount of indemnity paid, based on the availability of State funds, shall be 75 percent of the fair market value and the health thereof at the time of slaughter, minus the salvage value. The following conditions shall be considered when determining the fair market value and health of the infected flock:

1) Initial purchase price of each bird;

2) Age of the bird and its egg production capabilities or value for producing progeny; and

3) Feed and veterinary medical production costs as justified by documentation by the flock owner in the form of sales receipts and veterinary bills.

f) The Department and the infected flock owner must agree upon the value of the poultry destroyed, and in the case as agreement cannot be made, indemnity will not be paid for the flock.

(Source: Added at 14 Ill. Reg. 15313, effective September 10, 1990)

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1) The Heading of the Part: Illinois Pseudorabies Control Act

2) Code Citation: 8 Ill. Adm. Code 115

3) Section number: Adopted Action:
115.80 Amended

4) Statutory Authority: Illinois Pseudorabies Control Act (Ill. Rev. Stat. 1989, ch. 8, pars. 805, 807 and 811).

5) Effective Date of Amendments: September 10, 1990

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? None requiring approval under Section 6.02(b) of the Illinois Administrative Procedure Act.

8) Date Filed in Agency's Principal Office: September 6, 1990

9) Notices of Proposal Published in Illinois Register:

June 8 1990, 14 Ill. Reg. 8773
(issue date)

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version:
On the notice page, item 3, deleted "Section".

Authority sections--updated citations to "1989" edition and deleted reference to the Public Act.

Section 115.80(b)--changed "will" to "shall".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? None required.

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments:

We have deleted references to Class A and Class B classifications under the Criteria for Recognizing PRV Low-Prevalence Areas as exemptions

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from the pseudorabies testing requirements for feeder swine. The National Pseudorabies Control Board and the Class A-C system of rating states has been eliminated and only the classifications under the Pseudorabies Eradication State-Federal-Industry Program Standards exist.

We have added Stage III under the Pseudorabies Control Regulations for entry of feeder pigs, as Stage III corresponds with the old Class B. Further, we have deleted the requirement that Class B feeder pigs must have been in compliance with Class B standards for at least one year as the requirements for Stage III status eliminate the need for this waiting period.

Currently there are three states recognized as Stage III. They are Ohio, Wisconsin and Alabama.

16) Information and questions regarding these adopted amendments

shall be directed to:

Name: Donna Garman

Address: Division of Administrative Services, Illinois
Department of Agriculture, Agriculture Building, State
Fairgrounds, Springfield, Illinois 62794-9281

Telephone: (217) 785-0112

The full text of Adopted Amendments begins on the next page:

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PART 115

ILLINOIS PSEUDORABIES CONTROL ACT

Section

115.10	Definitions
115.15	Incorporation by Reference
115.20	Pseudorabies Quarantines
115.30	General Requirements for Qualified Pseudorabies Negative, Controlled Vaccinated and Feeder Swine Pseudorabies Monitored Herds
115.40	Requirements for Establishing and Maintaining Qualified Pseudorabies Negative Herds
115.50	Requirements for Establishing and Maintaining Pseudorabies Controlled Vaccinated Swine Herds
115.60	Requirements for Establishing and Maintaining Feeder Swine Pseudorabies Monitored Herds
115.70	Pseudorabies Test Requirements for Intrastate Movement
115.80	Pseudorabies Testing of Feeder Swine
115.90	Feeder Swine
115.100	Breeding Animals Consigned to Slaughter

AUTHORITY: Implementing and authorized by the Illinois Pseudorabies Control Act (Ill. Rev. Stat. 19897, ch. 8, par. 801 et seq. as amended by P.A. 86-231, effective August 15, 1989).

SOURCE: Adopted at 12 Ill. Reg. 3394, effective January 22, 1988; amended at 13 Ill. Reg. 3685, effective March 13, 1989; amended at 14 Ill. Reg. 1935, effective January 19, 1990; amended at 14 Ill. Reg. 5065, effective March 21, 1990; amended at 14 Ill. Reg. 15318, effective September 10, 1990.

Section 115.80 Pseudorabies Testing of Feeder Swine

a) Swine for feeding purposes shall, in addition to complying with the other requirements of this part and 8 Ill. Adm. Code 105.10, enter or move within Illinois without further testing requirements for pseudorabies if:

- 1) The swine are from a qualified pseudorabies negative herd, a pseudorabies controlled vaccinated herd, or a feeder swine pseudorabies monitored herd; or

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- 2) The swine are from a herd in which a representative sample of animals 6 months of age and over have been tested and are negative to an official serological test for pseudorabies within the preceding 12 months. In herds of 35 animals or less, a representative sample is all swine 6 months of age and over or at least 10 animals, whichever is less. In herds of 36 animals or more, a representative sample is a minimum of 30 percent or 30 animals that are 6 months of age and over, whichever is less; or

- 3) The swine originate from a state or a portion of a state that has been classified as Class A or Class B in accordance with criteria for Recognizing PRV Low-Prevalence Areas (1986; National Pseudorabies Control Board, 6414 Goppa Avenue, Nor Elb, Madison, Wisconsin 53716) or classified as Stage III, IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards (April, 1989) as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176). However, in the case of a Class B classification, the pseudorabies program in the state or portion of the state must have been in compliance with Class B standards for at least one year.

- b) Swine tested for pseudorabies under a market swine testing program (Section 115.100) shall ~~will~~ be included in the representative sample required in subsection (a)(2).

(Source: Amended at 14 Ill. Reg. 15318, effective September 10, 1990.)

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- 1) The Heading of the Part: Swine Disease Control and Eradication Act
2) Code Citation: 8 Ill. Adm. Code 105
3) Section numbers: Adopted Action:
105.30 Amended
4) Statutory Authority: Illinois Swine Disease Control and Eradication Act (Ill. Rev. Stat. 1989, ch. 8, pars. 504, 511 and 515); the Illinois Pseudorabies Control Act (Ill. Rev. Stat. 1989, ch. 8, pars. 805, 807 and 811).

- 5) Effective Date of Amendments: September 10, 1990

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? None requiring approval under Section 6.02(b) of the Illinois Administrative Procedure Act.

- 8) Date Filed in Agency's Principal Office: September 6, 1990

- 9) Notice of Proposal Published in Illinois Register:

June 8, 1990, 14 Ill. Reg. 8777
(issue date)

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Differences between proposal and final version:

On the notice page, item #3, deleted "Section".

Authority sections--Updated citations to "1989" edition and deleted references to the Public Acts.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? None required.

- 13) Will these amendments replace an emergency amendment currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendments:

We have deleted references to Class A and Class B classifications under the Criteria for Recognizing PRV Low-Prevalence Areas as exemptions from the pseudorabies testing requirements for breeding swine. The National Pseudorabies Control Board and the Class A-C system of rating states has been eliminated and only the classifications under the Pseudorabies Eradication State-Federal-Industry Program Standards exist.

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Further, we have deleted the requirement that Class B breeding swine must have been in compliance with Class B standards for at least one year as the requirements for Stage IV status eliminate the need for this waiting period.

16) Information and questions regarding this adopted amendment

shall be directed to:

Name: Donna Garman

Address: Division of Administrative Services, Illinois

Department of Agriculture, Agriculture Building, State

Fairgrounds, Springfield, Illinois 62794-9281

Telephone: (217) 785-0112

The full text of Adopted Amendments begins on the next page:

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PART 105

SWINE DISEASE CONTROL AND ERADICATION ACT

Section

- 105.5 Definitions
- 105.10 Swine Entering Illinois for Feeding Purposes Only
- 105.20 Quarantine of Imported Feeder Swine
- 105.30 Swine Entering Illinois for Breeding Purposes
- 105.40 Pseudorabies (Aujeszky's Disease) in Swine (Repealed)
- 105.41 General Requirements for Qualified Pseudorabies Negative, Controlled Vaccinated and Feeder Swine Pseudorabies Monitored Herds (Repealed)
- 105.42 Requirements for Establishing and Maintaining Qualified Pseudorabies Negative Herds (Repealed)
- 105.44 Requirements for Establishing and Maintaining Pseudorabies Controlled Vaccinated Swine Herds (Repealed)
- 105.46 Requirements for Establishing and Maintaining Feeder Swine Pseudorabies Monitored Herds (Repealed)
- 105.50 Official Pseudorabies Test (Repealed)
- 105.60 Pseudorabies Test Requirements for Intrastate Movement (Repealed)
- 105.70 Pseudorabies Testing of Feeder Swine (Repealed)
- 105.80 Feeder Swine (Repealed)

AUTHORITY: Implementing and authorized by the Illinois Swine Disease Control and Eradication Act (Ill. Rev. Stat. 19897, ch. 8, par. 501 et seq.7 as amended by P.A. 86-231, effective August 15, 1989), the Illinois Pseudorabies Control Act (Ill. Rev. Stat. 19897, ch. 8, par. 801 et seq.7 as amended by P.A. 86-231, effective August 15, 1989), and the Illinois Swine Brucellosis Eradication Act (Ill. Rev. Stat. 19897, ch. 8, par. 148f et seq.7 as amended by P.A. 86-231, effective August 15, 1989).

SOURCE: Rules and Regulations Relating to the Illinois Swine Disease Control and Eradication Act, filed February 24, 1975, effective March 6, 1975; 2 Ill. Reg. 24, p. 31, effective June 15, 1978; 2 Ill. Reg. 46, p. 10, effective November 11, 1978; 3 Ill. Reg. 33, p. 341, effective January 1, 1980; 5 Ill. Reg. 3, p. 745, effective January 2, 1981; 5 Ill. Reg. 45, p. 12100, effective October 27, 1981; codified at 5 Ill. Reg. 10461; 5 Ill. Reg. 13619, effective December 4, 1981; amended at 8 Ill. Reg. 5998, effective April 23, 1984; amended at 9 Ill. Reg. 2236, effective February 15, 1985; amended at 9 Ill. Reg. 18435, effective November

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NOTICE OF ADOPTED AMENDMENTS

ber 19, 1985; amended at 10 Ill. Reg. 9758, effective May 21, 1986; amended at 11 Ill. Reg. 10187, effective May 15, 1987; amended at 11 Ill. Reg. 10538, effective May 21, 1987; amended at 12 Ill. Reg. 3440, effective January 22, 1988; amended at 13 Ill. Reg. 3715, effective March 13, 1989; amended at 14 Ill. Reg. 1961, effective January 19, 1990; amended at 14 Ill. Reg. 15322, effective September 10, 1990.

Section 105.30 Swine Entering Illinois for Breeding Purposes

a) Swine for breeding purposes may enter Illinois provided they are accompanied by an official health certificate.

b) Official health certificate shall:

- 1) Be issued by an accredited veterinarian of the state of origin or by a veterinarian in the employ of the United States Department of Agriculture;
- 2) Be approved by the Animal Health Official of the state of origin;
- 3) Identify each animal by registration number, ear tag, tattoo, or ear notch approved by the respective breed registry;
- 4) Show the swine are free from visible evidence of contagious, infectious, or communicable diseases;
- 5) Show that the swine are not from a quarantined herd and/or area;
- 6) Show any swine more than 4 months of age to be negative to an official test for brucellosis, conducted by an approved laboratory within 30 days prior to entry, OR that the swine originate from a validated brucellosis-free herd, with validated herd number and validation date listed on the health certificate, OR that the swine originate from a validated brucellosis-free area (Brucellosis Eradication Uniform Methods and Rules (July 1, 1986; as approved by the United States Animal Health Association, P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176)). Incorporation by reference does not include any amendments or editions beyond the date specified;

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7) Show any swine to be negative to an official test for pseudorabies conducted by an approved laboratory within 30 days prior to entry OR that the swine originated from a qualified pseudorabies negative herd, with the qualified herd number and qualification date listed on the health certificate, OR that the swine originated from a state that has been classified as Class A or Class B in accordance with the criteria for low-prevalence pseudorabies Areas (1986; National Pseudorabies Control Board, 6414 Goppa Avenue, #116, Madison, Wisconsin 53716) or classified as Stage IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards (April 1989) as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176). Incorporation by reference does not include any amendments or editions beyond the date specified. However, in the case of Class B classification, the pseudorabies program in the state shall have been in compliance with Class B standards for at least one year in order for the import testing requirement to be waived.

c) A percentage of the breeding swine shall be retested and negative to an official test for pseudorabies conducted not less than 30 days nor more than 90 days after entering Illinois. If the number of breeding animals is 35 or less, all or at least 10 animals, whichever is less, are to be tested. If more than 36 breeding animals are involved, a minimum of 30 percent or 30 animals, whichever is less, is to be tested.

(Source: Amended at 14 Ill. Reg. 15322, effective September 10, 1990)

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AUDITOR GENERAL

NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: Code of Regulations
- 2) Code Citation: 74 Ill. Adm. Code 420
- 3) Section numbers: Adopted Action:
420.420 Amendments
- 4) Statutory Authority: Ill. Rev. Stat. 1989 ch. 15, par. 303-8.
- 5) Effective Date of Amendments: September 25, 1990
- 6) Does this rulemaking contain an automatic repeal date? Yes ☒ No
If so, please specify date: _____
- 7) Does this amendment contain incorporations by reference? No. If
"yes," was a copy of the approval form issued by JCAR attached to
this rulemaking?
- 8) Date Filed in Agency's Principal Office: August 28, 1990
- 9) Notice(s) of Proposal Published in Illinois Register:
January 26, 1990. 14 Ill. Reg. 1541
(issue date)
- 10) Has JCAR issued a Statement of Objections to this amendment? No If
answer is "yes," please complete the following:
- A) Statement of Objection: _____ Ill. Reg. _____
(issue date)
- B) Agency Response: _____ Ill. Reg. _____
(issue date)
- C) Date Agency Response Submitted for Approval to JCAR:
- 11) Difference(s) between proposal and final version: No differences
other than technical corrections
- 12) Have all the changes agreed upon by the agency and JCAR been made
as indicated in the agreement letter issued by JCAR? yes
- 13) Will this amendment replace an emergency rule (amendment, repealer)
currently in effect? No.
- 14) Are there any amendments pending on this Part? No
Section Numbers Proposed Action Illinois Register Citation

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AUDITOR GENERAL

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Amendments: Amendments make general changes
with regard to which agencies are subject to annual audits.
- 16) Information and questions regarding this adopted amendment shall be
directed to:
Name: Jane Upchurch Address: Office of the Auditor General, 509 S.
Sixth Spfld, IL 62701 Phone: (217) 782-3648
The full text of the Adopted Amendments begins on the next page:

AUDITOR GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 74: PUBLIC FINANCE
CHAPTER III: AUDITOR GENERALPART 420
CODE OF REGULATIONS

SUBPART A: STANDARDS OF CONSTRUCTION FOR REGULATIONS

Section
420.10
420.20Introduction
General ProvisionsSection
420.110
420.120
420.130
420.140Introduction
General Provisions
Abbreviations
Specific Definitions

SUBPART B: DEFINITIONS

Section
420.210
420.220
420.230
420.240
420.250Introduction
General Particulars
Right to Information
Investigative Personnel
Investigation Procedures and Reports

SUBPART C: INVESTIGATIONS

SUBPART D: STANDARDS APPLICABLE TO AUDITS
OF ILLINOIS STATE GOVERNMENTAL ORGANIZATIONS AND PROGRAMS
AND TO COMPLIANCE AUDITS CONDUCTED BY STATE AGENCIES
OF LOCAL AND PRIVATE AGENCIESSection
420.310
420.320
420.330
420.340Introduction
General Provisions
Examination and Evaluation Standards
Reporting Standards

SUBPART E: FREQUENCY OF MANDATORY FINANCIAL OR COMPLIANCE AUDITS

Section
420.410
420.420
420.430Introduction
General Provisions
Miscellaneous ProvisionsSUBPART F: REVIEW OF RECEIPT OR COLLECTION
OF STATE REVENUE BY STATE AGENCIES

AUDITOR GENERAL

NOTICE OF ADOPTED AMENDMENT(S)

Section
420.510
420.520
420.530Introduction (Repealed)
Review of Receipt or Collection of State Revenues by State Agencies (Repealed)
Miscellaneous Provisions (Repealed)

SUBPART G: MAINTENANCE OF INFORMATION

Section
420.610
420.620
420.630
420.640Introduction
General Provisions
Confidential Information
Disclosure and Dissemination of Information

SUBPART H: CONSULTATIONS AND RESPONSES TO FINDINGS

Section
420.710
420.720Introduction
Consultations with Heads of Agencies and Individuals

AUTHORITY: Subparts A and B implementing and authorized by Section 3-7 of the Illinois State Auditing Act (Ill. Rev. Stat. 1987, ch. 15, par. 303-7); Subpart C and implementing and authorized by Sections 3-8(b), 3-8(c), and 3-8(d) of the Illinois State Auditing Act (Ill. Rev. Stat. 1987, ch. 15, pars. 303-8(b), 303-8(c), and 303-8(d)); Subpart D implementing and authorized by Section 3-6 of the Illinois State Auditing Act (Ill. Rev. Stat. 1987, ch. 15, par. 303-6); Subpart E implementing and authorized by Section 3-8 of the Illinois State Auditing Act (Ill. Rev. Stat. 1987, ch. 15, par. 303-8); Subpart G implementing and authorized by Sections 3-7, 3-8(a), and 3-11 of the Illinois State Auditing Act (Ill. Rev. Stat. 1987, ch. 15, pars. 303-7, 303-8(a), and 303-11); Subpart H implementing and authorized by Sections 3-7, 3-8(c), and 3-8(d) of the Illinois State Auditing Act (Ill. Rev. Stat. 1987, ch. 15, pars. 303-7, 303-8(c), and 303-8(d)).

SOURCE: Rules and Regulations of the Auditor General filed March 8, 1976, effective March 18, 1976, and amended: effective April 15, 1976; effective September 1, 1976; amended at 3 Ill. Reg. 5, p. 865, effective January 27, 1979; amended at 3 Ill. Reg. 5, p. 868, effective January 27, 1979; amended at 3 Ill. Reg. 15, p. 107, effective April 12, 1979; amended at 3 Ill. Reg. 34, p. 99, effective August 20, 1979; amended at 3 Ill. Reg. 48, p. 138, effective November 29, 1979; amended at 4 Ill. Reg. 40, p. 49, effective September 19, 1980; codified at 5 Ill. Reg. 10575; amended at 6 Ill. Reg. 2587, effective March 10, 1982; amended at 7 Ill. Reg. 1216, effective February 5, 1983; amended at 7 Ill. Reg. 6475, effective May 15, 1983; amended at 7 Ill. Reg. 6481, effective May 15, 1983; amended at 8 Ill. Reg. 7214, effective May 25, 1984; amended at 8 Ill. Reg. 17244, effective September 15, 1984; amended at 14 Ill. Reg. 15327, effective September 25, 1990.

NOTICE OF ADOPTED AMENDMENT(S)

Section 420.420 General Provisions

- a) STANDARD AUDIT PERIOD. Except as established in this Subpart all agencies for which the Auditor General is required to conduct a financial and compliance audit will be so audited at least once every two years.
- b) AGENCIES TO BE AUDITED YEARLY. The following agencies or subunits thereof shall be subject to a financial and compliance audit at least once each year.

Community College of East St. Louis
 Comptroller -- State Central Accounts
 Department-of-Revenue----State-Lottery-Only
 Department of the Lottery
 East St. Louis Development Authority
 Farm Development Authority
 Federal-Revenue-Sharing-Funds
 Governor's Council on Health and Physical Fitness (including Prairie State Games)
 Illinois Community Development Finance Corporation
 Illinois Development Finance Authority
 Illinois Educational Facilities Authority
 Illinois Export Development Authority
 Illinois Health Facilities Authority
 Illinois Housing Development Authority
 Illinois Independent Higher Education Loan Authority
 Illinois-Registative-Investigating-Commission----Revolving-Trust Fund
 Illinois State Employees Deferred Compensation Plan
 Private-State-2000-Fund
 State Board of Investment
 State-Fair-Activity-of-the-Department-of-Agriculture
 State Treasurer -- State Central Accounts Only
 Toll Highway Authority

c) LIMITED FINANCIAL OR COMPLIANCE AUDITS.
 1) The following agencies shall be subject to a limited financial or compliance audit as defined in subsection (c) of this Section in each year that the agency is not subject to a regular financial and compliance audit.
 Board of Governors -- Cooperative Computer Center
 Capital Development Board ---Capital-Development-Fund
 Chicago State University
 Chicago State University Foundation
 Chicago Technology Park
 Department of Administrative Services -- Communications Revolving Fund, State Garage Revolving Fund, Office Supplies Revolving Fund and the Paper and Printing Revolving Fund
 Department of Corrections -- Correctional Industries -- Working Capital Revolving Fund
 Department of Employment Security

NOTICE OF ADOPTED AMENDMENT(S)

Department of Public Aid
 Department of Revenue
 Department of Transportation
 Eastern Illinois University
 Eastern Illinois University Alumni Association
 Eastern Illinois University Foundation
 General Assembly Retirement System
 Governors State University
 Governors State University Alumni Association
 Governors State University Foundation
 Governors State University Consortium for Computer Services
 Illinois Mathematics and Science Academy
 Illinois State Board of Education
 Illinois Student Assistance Commission
 Illinois -- Revenue Bonds
 Illinois State University
 Illinois State University Foundation
 Judges Retirement System
 Northeastern Illinois University
 Northeastern Illinois University Foundation
 Northern Illinois University
 Northern Illinois University Alumni Association
 Northern Illinois University Foundation
 Prairie State 2000 Fund
 Sangamon State University
 Sangamon State University Alumni Association
 Sangamon State University Foundation
 Secretary of State
 Southern Illinois University
 Southern Illinois University Alumni Association
 Southern Illinois University Foundation
 State Employees Retirement System
 State Universities Retirement System
 Teachers' Retirement System
 University of Illinois
 University of Illinois Alumni Association
 University-of-Illinois-Athletic-Association
 University-of-Illinois-Athletic-Association-Retirement-System
 University of Illinois Foundation
 University of Illinois University
 Western Illinois University
 Western Illinois University Foundation

State---Scholarship

- 2) A limited financial or compliance audit shall mean an audit limited to the following:
 - A) An examination of agency financial statements made in accordance with generally accepted auditing standards to determine whether the financial statements of the agency are fairly presented; including:
 - i) Testing of the records, books and accounts of the audited agency to determine whether they accurately

NOTICE OF ADOPTED AMENDMENT(S)

- reflect its financial and fiscal operations;
- ii) Testing whether the audited agency is maintaining effective accounting control over revenues, obligations, expenditures, assets and liabilities.
 - B) Reviewing the collection of revenue pursuant to Section 3-10 ISAA and the regulations promulgated thereunder.
 - d) ADMINISTRATION. In order to adjust workloads, respond to future audit needs and priorities, and maintain an audit firm rotation program, the Auditor General, if necessary, may adjust the audit frequency of any program for the purpose of implementing a needed transition program.

(Source: Amended at 14 Ill. Reg. 15327, effective September 25, 1990)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Claims, Adjudication, Appeals And Hearings
- 2) Code Citation: 56 Ill. Adm. Code 2720
- 3) Section Number: Adopted Action: 2720.255
Amended Section
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 48, pars. 349, 409, 420, 450, 451, 452, 453, 455, 456, 470, 471, 473, 474, 474a, 500, 501, 502, 504, 530, 610, 611, 700, 701, 702 and 704.
- 5) Effective Date of the Amendment: September 10, 1990.
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this Rule contain an incorporation by reference? No.
- 8) Date filed in Agency's Principal Office: August 28, 1990.
- 9) Notice of Proposal published in Illinois Register: May 25, 1990 at 14 Ill. Reg. 7686.
- 10) Has JCAR issued a Statement of Objection to these Rules? No.
- 11) Difference between proposal and final version: In subsection (c), the last line, "will" is changed to "shall". In subsection (c)(1) "; e. g., the appellant does not attend a hearing because he claims not to have received notice of the hearing, he does, however, receive a decision that his appeal has been dismissed for failing to appear at the hearing, his request for rehearing must be filed within 10 days of this decision because, as a result of the dismissal of his appeal, he should have known that he missed the scheduled hearing" was added to the end of the first sentence. In subsection (c)(2), (B) became (A) and (A) became (B), and "In such cases, if an adverse decision on the merits was issued, a timely appeal to the denial of a timely request for rehearing shall also constitute a timely appeal on the merits of the matter." was added.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.
- 13) Will this replace an emergency rule currently in effect? No.

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DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? Yes.

Section Numbers	Proposed Action	Ill. Reg. Citation
2720.125	Repealed Section	14 Ill. Reg. 10237 (June 29, 1990)
2720.126	Repealed Section	14 Ill. Reg. 10237 (June 29, 1990)
2720.127	Repealed Section	14 Ill. Reg. 10237 (June 29, 1990)
2720.128	Repealed Section	14 Ill. Reg. 10237 (June 29, 1990)
2720.129	Repealed Section	14 Ill. Reg. 10237 (June 29, 1990)

- 15) Summary and purpose of the rules: This amendment to Part 2720 sets forth the Department's policy that, due to the confusion created by the current provision (Section 2720.225) for an automatic appeal to a denial of a request for a rehearing where a party failed to appear at the original hearing, the Department is amending to require the aggrieved party to separately appeal to the Board of Review if he disagrees with the denial of rehearing.

- 16) Information and Questions regarding these Adopted Amendments may be addressed to:

Stella Adams Cuthbert, Commissioner
Illinois Department of Employment Security
401 South State Street - 2 South
Chicago, Illinois 60605
312/793-4240

The full Text of the Adopted Amendments begins on the next page:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER a: GENERAL PROVISIONS

PART 2720
CLAIMS, ADJUDICATION, APPEALS AND HEARINGS

SUBPART A: GENERAL PROVISIONS

Section	
2720.1	Definitions
2720.3	"Week" In Relation To "Benefit Year"
2720.5	Service Of Notices, Decisions, Orders
2720.10	Computation Of Time
2720.15	Disqualification Of Adjudicator, Referee, Or Board Of Review
2720.20	Attorney Representation Of Claimants
2720.25	Form Of Papers Filed
2720.30	Correction Of Technical Errors

SUBPART B: APPLYING FOR UNEMPLOYMENT INSURANCE BENEFITS

Section	
2720.100	Filing A Claim
2720.101	Filing, Registering And Reporting By Mail Under Special Circumstances
2720.105	Time For Filing An Initial Claim For Benefits
2720.106	Dating Of Claims For Weeks Of Partial Unemployment
2720.107	Employing Unit Reports For Partial Unemployment
2720.110	Required Second Visit To Local Office
2720.115	Continuing Eligibility Requirements
2720.120	Time For Filing Claim Certification For Continued Benefits
2720.125	Work Search Requirements For Regular Unemployment Insurance Benefits
2720.126	Availability For Part Time Work Only
2720.127	Director's Approval Of Training
2720.128	Active Search For Work: Attendance At Training Courses
2720.129	Regular Attendance In Approved Training
2720.130	Employing Unit Protest Of Benefit Payment
2720.132	Required Notice By An Employer Of Separation For Alleged Felony Or Theft Connected With The Work
2720.135	Adjudicator Investigation
2720.140	Adjudicator Determination
2720.145	Payment Of Unemployment Insurance Benefits For Initial Claims
2720.150	Applying For Unemployment Insurance Benefits Under Extension Programs

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

2720.155 Non-Resident Application For Benefits
 2720.160 Reconsidered Findings Or Determinations

SUBPART C: APPEALS TO REFEREE

Section
 2720.200 Filing Of Appeal
 2720.205 Notice Of Hearing
 2720.210 Preparation For The Hearing
 2720.215 Format Of Hearings
 2720.220 Ex Parte (One Party Only) Communications
 2720.225 Subpoenas
 2720.227 Depositions
 2720.230 Consolidation Or Severance Of Proceedings
 2720.235 Withdrawal Of Appeal
 2720.240 Continuances
 2720.245 Conduct Of Hearing
 2720.250 Rules Of Evidence
 2720.255 Failure Of Party To Appear At The Scheduled Hearing
 2720.265 The Record
 2720.270 Referee's Decision
 2720.275 Labor Dispute Appeals
 2720.277 Prehearing Conference In Labor Dispute Appeal

SUBPART D: APPEALS TO THE BOARD OF REVIEW

Section
 2720.300 Filing Of Appeal
 2720.305 Notice Of Appeal
 2720.310 Request For Oral Argument
 2720.315 Request For Written Argument Or Additional Evidence
 2720.320 Access To Record
 2720.325 Withdrawal Of Appeal
 2720.330 Consolidation Or Severance Of Appeals
 2720.335 Decision Of The Board Of Review
 2720.340 Extensions Of Time In Which To Issue A Board Of Review Decision
 2720.345 Issuance Of Notice Of Right To Sue

AUTHORITY: Implementing and authorized by Sections 239, 409, 500, 604, 700, 701, 702, 703, 705, 706, 800, 801, 803, 804, 805, 1000, 1001, 1002, 1004, 1200, 1700, 1701, 2300, 2301, 2302 and 2304 of the Unemployment Insurance Act (Ill. Rev. Stat. 1989, ch. 48, pars. 349, 409, 420, 450, 451, 452, 453, 455, 456, 470, 471, 473, 474, 474a, 500, 501, 502, 504, 530, 610, 611, 700, 701, 702 and 704.

SOURCE: Adopted at 8 Ill. Reg. 24957, effective January 1, 1985; amended at 10 Ill. Reg. 12620, effective July 7, 1986;

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

amended at 11 Ill. Reg. 14338, effective August 20, 1987; amended at 11 Ill. Reg. 18671, effective October 29, 1987; amended at 12 Ill. Reg. 14660, effective September 6, 1988; emergency amendments at 13 Ill. Reg. 11890, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 18263, effective November 9, 1989; amended at 14 Ill. Reg. 15334, effective September 10, 1990.

SUBPART C: APPEALS TO REFEREE

Section 2720.255 Failure Of Party To Appear At The Scheduled Hearing

a) Failure of the appellant to appear at the hearing at the time that the hearing is scheduled before the Referee will result in a dismissal of the appeal. If the hearing is scheduled to be conducted by telephone, failure of the appellant to inform the Referee of his telephone number or to answer the telephone at that number, will also result in dismissal of the appeal.

b) Failure of the appellee to appear at the hearing at the time that the hearing is scheduled, or, if a hearing is scheduled to be conducted by telephone, failure of the appellee to inform the Referee of his telephone number, or to answer the telephone at that number, will cause the Referee to issue a decision based on the record made by the Adjudicator and the evidence introduced by the appellant at the hearing.

c) If a party fails to appear and an adverse decision is rendered, that party may, by letter or on the record, request rehearing of the appeal from the Referee or from his supervisor, provided that party has not filed an appeal to the Board of Review pursuant to Section 2720.300. In the event that such an appeal to the Board of Review has been filed, the rehearing request will be denied. The request will be assigned to the same Referee to whom the appeal was originally assigned. Using the following procedure shall be used:

- 1) Requests to rehear the appeal must be filed no later than 10 days after the hearing or the date that the party first received notice of the decision. The party should have known of the scheduled hearing, which ever is later, but in no event beyond the time for filing a timely appeal the Board of Review pursuant to Section 2720.300(a) of this part; e.g., the appellant does not attend a hearing because he claims not to have received notice of the hearing,

- 1) Heading of the Part: ACCREDITING PERSONS IN THE PRACTICE OF MEDICAL RADIATION TECHNOLOGY

2) Code Citation: 32 Ill. Adm. Code 401

3) Section Number:

401.10
401.20
401.30
401.50
401.70
401.80
401.100
401.130
401.140
401.150

Adopted Action:

Amendment
Amendment
Amendment
Amendment
Amendment
Amendment
Amendment
Amendment
Amendment
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 4, 4.1, 4.2 and 9 of the Radiation Protection Act (Ill. Rev. Stat. 1989, ch. 111½, pars. 214, 214.1, 214.2 and 219).

5) Effective Date of Amendments: September 4, 1990

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: August 31, 1990

9) Notices of Proposal Published in Illinois Register:
December 8, 1989, 13 Ill. Reg. 19017

10) Has JCAR issued a Statement of Objections to this rule? No

11) Difference(s) between proposal and final version:

a) In the Table of Contents, Section 401.10, the "g" symbol has been changed to the word "and".

b) In the Authority note, the Public Act citations have been deleted.

c) The citation to the Illinois Revised Statutes has been changed from the 1987 edition to the 1989 edition.
- d) Section 401.20 Definitions:

• the statutory citation has been added to the definition for "Accreditation";

• the definition for "Bone Densitometry" has been deleted;

• the italic has been deleted from the definition of "Credentialing";

• the phrase "or performs bone densitometry procedures" has been deleted from the definition of "Medical Radiographer";

• the definition of "Nuclear Medicine Technologist" has been rewritten as follows: "Nuclear Medicine Technologist" -
A person, other than a licensed practitioner, who performs in vivo and in vitro detection and measurements of radioactivity and the administration of radiopharmaceuticals to human beings for diagnostic and therapeutic purposes. A nuclear medicine technologist may perform such procedures only while under the supervision of a licensed practitioner who is licensed to possess and use radioactive materials.

e) Section 401.30(c)(2), line 2, the word "Illinois" has been deleted and the statutory citations have been added.

f) Section 401.30(c)(4), line 3, the statutory citation has been added.

g) Section 401.30(c)(6), line 2, the word "Illinois" has been deleted and the statutory citation has been added.

h) Section 401.50(a)(3), the word "and" has been inserted.

i) Section 401.50(a)(4), the semi-colon has been deleted and a period has been inserted.

j) Section 401.80, the Section Source Note has been added.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this proposed amendment replace an emergency rule currently in effect? No

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENTS

14) Are there any other amendments pending on this Part? No

- 15) Summary and Purpose of Amendments: This Amendment will implement the statutory changes made during the first half of the 86th session of the General Assembly. These changes include (1) changing the name of the Radiologic Technology Accreditation Board to Radiologic Technologist Accreditation Advisory Board and changing the fees for accreditation after December 31, 1990; (2) exempting from the radiologic technologist accreditation requirements those individuals who are employees of a medical facility which is owned and operated by a business, when the radiation is administered to employees of the business; (3) exempting any person, nurse, technician, or other assistant licensed under the Podiatric Medical Practice Act of 1987 from the accreditation requirements; (4) provisions for the Department to accredit technologists based upon experience and skill in the field of administering radiation to human beings obtained prior to July 1, 1989. In addition, this rulemaking specifies that persons licensed pursuant to the Medical Practice Act of 1987 or the Podiatric Medical Practice Act of 1987 are exempt from the accreditation requirements and clarifies that Conditional Accreditation Type II is valid for two years.

16) Information and questions regarding this adopted amendment shall be directed to:

Betsy Salus
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 785-9880

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENTS

TITLE 32: ENERGY

CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 401

ACCREDITING PERSONS IN THE PRACTICE OF MEDICAL RADIATION TECHNOLOGY

Section	Policy & and Scope
401.10	Definitions
401.20	Exemptions
401.30	Application for Accreditation
401.40	Categories of Accreditation
401.50	Examination Requirements
401.60	Acceptable Examinations
401.70	Approved Program
401.80	Practice Requirement - Initial Licensure (Repealed)
401.90	Initial Issuance of Accreditation
401.100	Duration of Accreditation
401.110	Suspension and Revocation of Accreditation
401.120	Fees
401.130	Requirements for Renewal of Accreditation
401.140	Reciprocity
401.150	Minimum Course of Education (Repealed)
401.160	Civil Penalties
401.170	

AUTHORITY: Implementing and authorized by Sections 4, 4.1, 4.2 and 9 of the Radiation Protection Act (Ill. Rev. Stat. 1987 1989, ch. 111½, pars. 214, 214.1, 214.2 and 219).

SOURCE: Adopted at 7 Ill. Reg. 17318, effective January 1, 1984; Emergency amendment at 8 Ill. Reg. 17584, effective September 12, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 2499, effective February 13, 1985; amended at 10 Ill. Reg. 13259, effective July 28, 1986; amended at 10 Ill. Reg. 21086 effective January 1, 1987; amended at 11 Ill. Reg. 15623, effective September 11, 1987; Emergency amendment at 11 Ill. Reg. 19797, effective November 24, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 7603, effective April 18, 1988; amended at 12 Ill. Reg. 18164, effective January 1, 1989; amended at 13 Ill. Reg. 15005, effective September 11, 1989; amended at 14 Ill. Reg. 15341, effective September 4, 1990.

Section 401.10 Policy and Scope

- a) The rules of this part establish education This Part establishes educational standards and an accreditation program for applicable to persons who apply ionizing radiation to human beings. they include Specifically, this Part provides:
- 1) Minimum standards of preparatory education and experience for persons who apply ionizing radiation to human beings in the disciplines of medical radiography, nuclear medicine technology, radiation therapy technology, and chiropractic radiography, and podiatric radiography.
 - 2) Examination requirements for certain categories of accreditation.
 - 3) Continuing education requirements for renewal of accreditation.
- b) The Rules of This Part 401 shall apply to any person who applies ionizing radiation to human beings for diagnostic or therapeutic purposes in this State or who otherwise engages in the practice of medical radiation technology in this State unless specifically exempted by the Act or under Section 401.30. These rules This Part shall also apply to persons who are not appropriately licensed under other statutes or regulations and who supervise students for purposes of instructing them while applying ionizing radiation to human beings.
- c) The Board may propose to the Department of Nuclear Safety such regulations as it deems to be appropriate for purposes of fulfilling the policy and scope of the accreditation program.

(Source: Amended at 14 Ill. Reg. 15341, effective September 4, 1990)

Section 401.20 Definitions

As used in this Part, the following definitions shall apply:

"Accreditation" - The process by which the Department of Nuclear Safety grants permission to persons meeting the requirements of this Act and the Department's rules and regulations to engage in the practice of administering radiation to human beings. Section 3.15 of the Act)

"Act" - The Radiation Protection Act (Ill. Rev. Stat. 1985 1989, ch. 111, pars. 211 et seq.).

"Administers Ionizing Radiation" - see "Applies Ionizing Radiation"

"Applies Ionizing Radiation" - The act(s) of using ionizing radiation for diagnostic or therapeutic purposes. Specifically included are those tasks which have a direct impact on the radiation burden of the patient, e.g.: Positioning of the patient, film and beam; preparation, calibration, and injection of radiopharmaceuticals; imaging or laboratory techniques which if performed improperly would result in the re-administration of radiation; selection of technique or treatment parameters.

"Approved Program" - A program which the Department has determined is adequate to prepare students to meet the education requirements prescribed in 42 CFR 75.3 Appendix A, D, and E (1983), exclusive of subsequent amendments or editions. A copy of 42 CFR 75.3 is available for inspection at the Department's offices, 1035 Outer Park Drive, Springfield, IL.

"Board"- The Radiologic Technology Technologist Accreditation Advisory Board (R.T.A.A.B.).

"Chiropractic Radiographic Assistant" - A person other than a licensed practitioner who performs medical radiation procedures and applies x-radiation to the human body for diagnostic evaluation of skeletal anatomy, while under the supervision of a licensed chiropractor.

"Chiropractic Radiography" - The science and art of applying x-radiation to human beings for diagnostic purposes in Chiropractic.

"Credentialing" - Means any process whereby a State government or non-governmental agency or association grants recognition to an individual who meets certain predetermined qualifications.

"Department" - Means the Illinois Department of Nuclear Safety.

"Direct Supervision" - An individual is in the physical presence of a licensed practitioner or medical radiation technologist who holds active status accreditation and assists, evaluates and approves of the individual's performance of the various tasks involved in the application of ionizing radiation.

"Director" - Means the Director of the Department of Nuclear Safety.

"Ionizing Radiation" - Means gamma rays, and x-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared or ultraviolet light.

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"Radiation Therapy Technologist" - A person, other than a licensed practitioner, who performs procedures and applies x-radiation and the ionizing radiation emitted from x-ray machines, particle accelerators, and or sealed radioactive sources to human beings for therapeutic purposes while under the supervision of a licensed practitioner who is licensed, as required, to possess and use radioactive materials.

"Radiation Therapy Technology" - The science and art of applying x-radiation and the ionizing radiation emitted from x-ray machines, particle accelerators and sealed radioactive sources to human beings for therapeutic purposes.

"Supervision" - Responsibility for, and control of, quality, radiation safety and protection, and technical aspects of the application of ionizing radiation to human beings for diagnostic and/or therapeutic purposes.

(Source: Amended at 14 Ill. Reg. 15341, effective September 4, 1990.)

Section 401.30 Exemptions

- Nothing in the Act or this Part shall be construed to limit or affect in any respect, the practice of persons properly licensed under other statutes or regulations with respect to their professions.
- The Department shall, upon application therefor or upon its own initiative, grant such exemptions or exceptions from the requirements of this Part as it determines are authorized by law and will not result in a hazard to public health and safety.

c) Exemptions shall include:

- 1) A student enrolled in an approved program applicable to his/her profession who, as a part of his/her course of study, applies ionizing radiation to human beings while under the supervision of a licensed practitioner.
- 2) A person licensed to practice a treatment of human ailments by virtue of the Medical Practice Act of 1987 (Ill. Rev. Stat. 1989, ch. 111, par. 4400-1 et seq.), the Illinois Dental Practice Act (Ill. Rev. Stat. 1989, ch. 111, par. 2301 et seq.), or the Podiatric Medical Practice Act of 1987 (Ill. Rev. Stat. 1989, ch. 111, par. 4801 et seq.) (Section 4 of the Act).
- 23) A person employed as a dental assistant who performs dental radiography for a licensed dentist.

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"~~in vivo~~ In vitro" - Isolated from the living organism.

"~~in vivo~~ In vivo" - Occurring within the living organism.

"Licensed Practitioner" - A person licensed or otherwise authorized by law to practice medicine, dentistry, osteopathy, chiropractic or podiatry.

"Medical Radiation Technology" - The science and art of performing medical radiation procedures involving the application of ionizing radiation to human beings for diagnostic and therapeutic purposes. The five specialized disciplines of Medical Radiation Technology are Medical Radiography, Nuclear Medicine Technology, Radiation Therapy Technology, Chiropractic Radiography, and Podiatric Radiography.

"Medical Radiographer" - A person, other than a licensed practitioner, who performs medical radiation procedures and, while under the supervision of a licensed practitioner, applies x-radiation to any part of the human body for diagnostic purposes while under the supervision of a licensed practitioner.

"Medical Radiography" - The science and art of applying x-radiation to human beings for diagnostic purposes.

"Nuclear Medicine Technologist" - A person, other than a licensed practitioner, who performs in vivo and in vitro detection and measurement of radioactivity and the administration of radiopharmaceuticals to human beings for diagnostic and therapeutic purposes while under the supervision of a licensed practitioner who is licensed, as required, to possess and use radioactive materials. A nuclear medicine technologist may perform such procedures only while under the supervision of a licensed practitioner who is licensed to possess and use radioactive materials.

"Nuclear Medicine Technology" - The science and art of in vivo and in vitro detection and measurement of radioactivity and the administration of radiopharmaceuticals to human beings for diagnostic and therapeutic purposes.

"Podiatric Radiographic Assistant" - A person other than a licensed practitioner who performs podiatric radiography while under the supervision of a licensed podiatrist.

"Podiatric Radiography" - The science and art of applying x-radiation to the lower leg, ankle, and foot, of the human body for diagnostic purposes in podiatry.

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- 4) A technician, nurse or other assistant who performs radiography under the supervision of a person licensed under the Podiatric Medical Practice Act of 1987. (Section 4.1 of the Act)

35) A person who holds Conditional Accreditation Type II issued in accordance with Section 401.100(d) during such time as that person is under the direct supervision of a licensed practitioner or medical radiation technologist who holds active status accreditation for purposes of being instructed in the use of equipment and/or procedures other than those for which the person is currently accredited.

- 6) A nurse, technician, or other assistant who, under the supervision of a person licensed under the Medical Practice Act of 1987, administers radiation to human beings, but only when such administration is performed on employees of a business at a medical facility owned and operated by that business. (Section 4.1 of the Act)

(Source: Amended at 14 Ill. Reg. 15341, effective September 4, 1990)

Section 401.50 Categories of Accreditation

- a) The Department shall accredit persons in the practice of Medical Radiation Technology in one or more of these specific categories:

- 1) Medical Radiography;
- 2) Nuclear Medicine Technology;
- 3) Radiation Therapy Technology; and
- 4) Chiropractic Radiography; and
- 5) Podiatric Radiography.

- b) The Department shall recognize three status conditions for any category of accreditation as follows:

- 1) Active - An applicant who meets the requirements as set forth in Section 401.100(a).
- 2) Temporary - An applicant who meets the requirements as set forth in Section 401.100(b).

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- 3) Conditional - An applicant who meets the requirements as set forth in Section 401.100(c), or (d).

(Source: Amended at 14 Ill. Reg. 15341, effective September 4, 1990)

Section 401.70 Acceptable Examinations

- a) The Department shall accept for, issuance of Active Status Accreditation, examinations as identified by this Section. Accreditation shall be specific to the category of examination as specified in subsection (b) of this Section.
- b) Examinations as appropriate to category of accreditation are as follows:

- 1) Medical Radiography

- The American Registry of Radiologic Technologists (R) (A.R.R.T.).

- 2) Nuclear Medicine Technology

- The American Registry of Radiologic Technologists (N) (A.R.R.T.), the Nuclear Medicine Technology Certification Board (N.M.T.C.B.), the American Society of Clinical Pathologists (NM) (A.S.C.P.).

- 3) Radiation Therapy Technology

- The American Registry of Radiologic Technologists (T) (A.R.R.T.).

- 4) Chiropractic Radiography

- American Chiropractic Registry of Radiologic Technologists (ACRRT), provided that the examination was administered after June 30, 1984.

- 5) Podiatric Radiography

- The examination in Podiatric Radiography shall include questions on: Radiation Safety, Radiographic Technique, Podiatric Procedures and related Anatomy, Physics, Terminology, and Film Processing. The examination must be approved by the Department and may be a comprehensive final examination at the closure of training, provided that the examination satisfies the requirements of this subsection. Department approval will be granted in accordance with subsection (e).

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- c) Examinations by other certifying organizations shall be accepted upon written request to the Department, provided that the Department finds that the certifying organization has met the National Commission for Health Certifying Agencies (NCHCA) requirements. (Publication Title: Perspectives on Health Occupational Credentialing) Contract # 232-78-0187, dated September 30, 1979, DHHS Publication No. (HRA) 81-4, U.S. Government Printing Office, Washington, D. C. 20402.

(Source: Amended at 14 Ill. Reg. 15341, effective September 4, 1990)

Section 401.80 Approved Program

- a) The Department shall base its approval of didactic and clinical education for Medical Radiography, Nuclear Medicine Technology, or Radiation Therapy Technology on the standards accepted by the Committee on Allied Health Education and Accreditation (CAHEA). (Specific information concerning these standards is available from the Committee on Allied Health Education and Accreditation of the American Medical Association and from the Department. These standards are entitled: Essentials and Guidelines of an Accredited Education Program for the Radiation Therapy Technologist (1983); Essentials and Guidelines of an Accredited Educational Program for the Radiographer (1983); Essentials of an Accredited Educational Program for the Nuclear Medicine Technologist (1984), and do not include subsequent amendments or editions).

- b) The Department shall base its approval of didactic and clinical education in Chiropractic Radiography on the standards accepted by the Chiropractic Council on Education (CCE), published January 27, 1985, exclusive of subsequent amendments or editions. Specific information concerning these standards is available from the Department or from the Chiropractic Council on Education, 3209 Ingersoll Avenue, Des Moines, Iowa 50312. Student exemption for persons enrolled in an approved Chiropractic Radiography program shall not exceed 12 months.

- c) The Department shall base its approval of didactic and clinical education in Pediatric Radiography on standards which have been adopted by the Department, entitled, "Curriculum for the Accreditation of Pediatric Radiography Assistants", September 16, 1987, exclusive of subsequent amendments or editions. Copies of these standards are available from the Department, or from the Illinois Pediatric Medical Association, 505 North Lake Shore Drive, Suite 5506, Chicago, Illinois 60611. Pediatric Radiography training shall not exceed 6 months for the purpose of student exemption.

(Source: Amended at 14 Ill. Reg. 15341, effective September 4, 1990)

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Section 401.100 Initial Issuance of Accreditation

- a) The Department shall issue Active Status Accreditation in a category of medical radiation technology to persons who have passed an examination as indicated in Section 401.70(b). Active Status Accreditation issued after January 1, 1988, shall be valid for two years from the date of issuance.
- b) ~~Temporary Accreditation~~
- 1) The Department shall issue Temporary Accreditation in a category of medical radiation technology and chiropractic radiography to persons who are awaiting an examination in accordance with Section 401.70(b) and have completed an approved program. Applicants for Temporary Accreditation must provide specific evidence of the intent to take such an examination, the category of examination to be taken, and the date on which the examination will be taken. Temporary Accreditation shall convey the same rights as the Active Status Accreditation for which the individual is awaiting examination. Temporary Accreditation shall be valid until such time as the individual successfully completes the appropriate examination and applies for and is issued Active Status Accreditation in accordance with subsection (a), but in no instance longer than twenty-four (24) months from the date of issuance for medical radiation technology and no longer than twelve (12) months from the date of issuance for chiropractic radiography.

- 2) ~~The Department will not issue Temporary Accreditation in pediatric radiography.~~

- c) The Department shall issue Conditional Accreditation Type I in a category of medical radiation technology upon determining that community hardship exists. When making a determination of the existence of community hardship, the Department will consult Health Systems Agencies or County or Local Health Departments, and will evaluate the availability of alternative radiology services and trained personnel. In addition, the Department shall require the applicant's employer or prospective employer to demonstrate that recruitment of qualified personnel, at competitive compensation, has been attempted and unsuccessful. Such demonstration can take the form of documented advertising in publications intended to reach radiologic technologists. If based on the information submitted, the Department determines that qualified personnel cannot be recruited, and that the people in the locality in which the conditional accreditation is sought would be denied adequate health care because of the unavailability of appropriately accredited persons, the Department

shall issue Conditional Accreditation Type I which shall be valid for a period of twenty-four (24) months from the date of issuance.

- d) The Department shall issue Conditional Accreditation Type II in a category of medical radiation technology to any person who, during not less than twenty-four (24) of the forty-eight (48) months immediately preceding January 1, 1984 prior to July 1, 1989, was employed in medical radiation technology and who otherwise does not meet the qualifications for accreditation. Conditional accreditation under this provision shall not be issued to any applicant whose application is filed after August 31, 1988. An application is filed on the date that it is actually received by the Department or on the date it is postmarked by the United States Postal Service, whichever is earlier. The Department shall issue Conditional Accreditation Type II in a category of medical radiation technology to any person who, during not less than three (3) years prior to January 1, 1980 and during not less than twelve (12) months between January 1, 1980 and December 31, 1983, inclusive, was employed in medical radiation technology and who otherwise does not meet the qualifications for accreditation. Conditional accreditation issued pursuant to this Section shall be valid for five two years from date of issuance. Issuance shall be contingent upon submitting a written Statement of Assurance that the person is competent to apply ionizing radiation to human beings. Persons who hold a two-year license (which was issued pursuant to subsection (f) as adopted at 7 Ill. Reg. 17318, effective January 1, 1984), or a two-year accreditation (which was issued pursuant to subsection (d), and as specified in this adopted Part), shall have that credential extended for three years, without fee, upon submitting a written Statement of Assurance that the person is competent to apply ionizing radiation to human beings. A Statement of Assurance submitted to the Department in accordance with this Section shall specify the nature of the equipment and procedures which the individual is competent to utilize. The Statement of Assurance must be provided by a licensed practitioner under whose supervision the individual is employed or has been employed at some time within the last twelve months. Conditional accreditation which is issued pursuant to this Section shall be specific to the procedures and equipment indicated in the Statement of Assurance. An individual who is accredited in accordance with this Section may expand the accreditation to additional procedures and/or equipment by receiving training in accordance with Section 401.30(c)(3). After such training, the individual may submit an additional Statement of Assurance from a licensed practitioner under whose supervision the individual is employed as to the additional equipment and procedures which the individual is competent to utilize. However, an individual may not become accredited pursuant to these provisions of this Section for equipment or procedures outside of those in the category

of initial accreditation. Nothing in this Section should be interpreted to limit an individual's right to make application for and be issued Active Status Accreditation in accordance with subsection (a).

(Source: Amended at 14 Ill. Reg. 15341, effective September 4, 1990)

Section 401.130 Fees

- a) The fees for accreditation in all categories shall be non-refundable and shall be as follows:

1) For applications filed before January 1, 1991:

- 1) A) Initial Accreditation - Active, Conditional or Temporary Status: \$30.00 per application

- 2) B) Renewal of Accreditation - Active and Conditional Status: \$30.00 per application

2) For applications filed on or after January 1, 1991:

- A) Initial Accreditation - Active, Conditional or Temporary Status: \$40.00 per application

- B) Renewal of Accreditation - Active and Conditional Status: \$40.00 per application

- b) The appropriate fees are to accompany the application when filing with the Department. An application is filed on the date that it is received by the Department or on the date that it is postmarked by the United States Postal Service, whichever is earlier.

(Source: Amended at 14 Ill. Reg. 15341, effective September 4, 1990)

Section 401.140 Requirements for Renewal of Accreditation

a) Prerequisites

- 1) An individual must make application for renewal of accreditation on or before the expiration date of the accreditation. Accreditation shall lapse if not renewed within this time period. An individual may not legally perform medical radiation

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technology without valid accreditation. Nothing in this Section shall be interpreted to preclude an individual from seeking the renewal of lapsed accreditation.

- 2) Each applicant shall submit a complete and legible application with the fee for renewal of accreditation in accordance with Section 401.130. Submission of an application for renewal shall hold the prior accreditation valid until such time as the Department acts to grant or deny renewal of accreditation. The Department will grant or deny renewal of accreditation within ninety (90) days of receipt of application for renewal.

b) Continuing Education Requirements

All applicants for renewal of accreditation, regardless of the category or status of accreditation sought to be renewed, must provide evidence of having participated in an approved program of continuing education as indicated below:

- 1) The required effort in continuing education per year for each category of medical radiation technology, applicable to each year elapsed since the most recent date of issuance of accreditation is as follows:

A) Radiography	12 units
B) Nuclear Medicine Technology	12 units
C) Radiation Therapy Technology	12 units
D) Chiropractic Radiography	12 units
E) Podiatric Radiography	4 units

- 2) The continuing education effort may be averaged during the period to which the requirement applies and shall be prorated by month. Individual courses may be applicable to more than one category of accreditation. The Department will base its approval on the relevance of the course work or training to the category or categories of current accreditation. In establishing relevancy, the Department will use standards such as are accepted by Verification of Involvement in Continuing Education (V.O.I.C.E.), Evidence of Continuing Education (E.C.E.), Continuing Medical Education (C.M.E.), and Continuing Education Units (C.E.U.). The Department will also accept relevant course work from accredited colleges and universities to satisfy this requirement.

- 3) Credit for continuing education other than as indicated above shall be granted by the Department if the individual or activity sponsor seeks approval of the course or activity and the Department finds that the course or activity will be consistent with courses approved in accordance with Section 401.140(b)(1).
- 4) The basis for a unit of continuing education credit shall be the contact hour (50 minutes) of lecture. Activity other than lecture shall be approved for credit by the Department based upon the standards of subsection (b)(2).

c) Nonrenewal of Accreditation

- 1) The Department shall not renew an individual's accreditation if he/she fails to present satisfactory evidence that he/she possesses the necessary qualifications for accreditation, and that he/she has participated in an approved continuing education program in accordance with this Part.
- 2) If the Department does not find satisfactory evidence that the individual meets these requirements, the Department shall, within ninety (90) days of receipt of the application for renewal of accreditation, send the individual a Notice of Intent Not to Renew Accreditation. This notice shall include the area(s) of deficiency and the individual's rights as set forth in this Section.
- 3) The individual may, within fifteen (15) days of the date of receipt of the Notice of Intent Not to Renew Accreditation, resubmit an application for renewal of accreditation which provides additional information to the Department in order to establish that the identified area(s) of deficiency have been met or corrected. The Department shall act upon such resubmission within thirty (30) days of receipt. Submission of such an application shall hold the prior accreditation valid until the Department acts on the application.
- 4) After receipt of a Notice of Intent Not to Renew Accreditation in accordance with subsections (2) or (3), the individual may request a hearing. Such request must be made within thirty (30) days of the date of receipt of the Notice of Intent Not to Renew Accreditation. The hearing shall be held in accordance with 32 Ill. Adm. Code 200, except that the applicant shall have the burden of proof of establishing that he/she has met the necessary qualifications for renewal of accreditation. Submission of a request for a hearing shall hold the prior accreditation valid until the individual's receipt of a decision pursuant to the hearing.

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- 5) If the applicant does not request a hearing within thirty (30) days of receipt of a Notice of Intent Not to Renew Accreditation in accordance with subsections (2) or (3), the Department shall issue a Notice of Nonrenewal.
- 6) An individual's current credential shall be invalid as of the date of his/her receipt of a Notice of Nonrenewal pursuant to subsection (5) or a decision issued after a hearing in accordance with subsection (4) of this Section.
- 7) If an individual's accreditation is not renewed, he/she shall have the right at any time to submit an application for renewal of accreditation. Such application shall be reviewed and processed in accordance with the requirements of this Section except that an individual may not legally apply ionizing radiation to human beings until and unless the Department has acted to grant such application for renewal of accreditation.

(Source: Amended at 14 Ill. Reg. 15341, effective September 4, 1990)

Section 401.150 Reciprocity

The Department shall accredit an out-of-state applicant provided that:

- a) The applicant holds a current credential as a Medical Radiographer, Nuclear Medicine Technologist, Radiation Therapy Technologist, Chiropractic Radiographic Assistant or Podiatric Radiographic Assistant issued by another state or jurisdiction; and
- b) The standards and procedures for credentialing in the state or jurisdiction which issued the credential afford the same or comparable credentialing standards as those afforded by the Illinois statute and regulations; and
- c) The applicant presents the credential to the Department; and
- d) The applicant submits the \$30.00 appropriate application fee in accordance with Section 401.130.

(Source: Amended at 14 Ill. Reg. 15341, effective September 4, 1990)

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- 1) The Heading of the Part: HOSPITAL SERVICES
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: Adopted Action:
148.140 Amendment
- 4) Statutory Authority: Sections 5-5.1 et seq and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 5-5.1 et seq and 12-13)
- 5) Effective Date of Proposed Amendment: September 13, 1990
- 6) Does this rulemaking contain an automatic repeal date?
Yes X No
- 7) Does this Adopted Amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: September 13, 1990
- 9) Notice of Proposal Published in Illinois Register:
April 13, 1990 (14 Ill. Reg. 5409)
- 10) Has JCAR issued a Statement of Objections to this Adopted Amendment? Yes
 - A) Statement of Objection: Sept. 21, 1990 (14 Ill. Reg. 15614)
 - B) Agency Response: Sept. 21, 1990 (14 Ill. Reg. 15644)
 - C) Date Agency Response Submitted for Approval to JCAR: September 6, 1990
- 11) Differences between proposal and final version:
 In 148.140(b)(6) changed (Sections 148.140(b)(4) and (5) to "subsections (b)(4) and (5).
 In (c)(3) updated the cite to the CFR from "(1984)" to "(1989)".
 In (b)(3) changed "statutes" to "statutes".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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13) Will this Adopted Amendment replace an Emergency Amendment currently in effect? No

14) Are there any Amendments pending on this Part? Yes

There is still an emergency amendment in affect on Section 148.140 which is not affected by this set of emergency amendments. The emergency amendment appears at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days. The copy filed in the Administrative Code Division reflects both the adopted and emergency amendments.

Section Numbers	Proposed Action	Illinois Register Citation
148.120	Amendment	June 15, 1990 (14 Ill. Reg. 9331)

15) Summary and Purpose of Adopted Amendment: This rule revision deletes the reference to scope of service when defining the major teaching grouping for payment maximums. The scope of service is no longer used as a grouping criterion for reimbursement purposes. This revision also deletes obsolete language referencing the 1987 appropriation.

16) Information and questions regarding this Adopted Amendment shall be directed to:

Name: Daniel Leikvold, Staff Attorney
Office of the General Counsel

Address: Illinois Department of Public Aid
Jesse B. Harris Building II
100 South Grand Avenue East
Springfield, Illinois 62762

Telephone: (217) 782-1233

The full text of the Adopted Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

Section	
148.10	Hospital Services
148.20	Participation
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Hospital Services Not Covered
148.70	Limitation On Hospital Services
148.80	Transplants
148.90	Heart Transplants
148.100	Liver Transplants
148.110	Bone Marrow Transplants
148.120	Disproportionate Share Hospital Adjustments
148.130	Payment for Inpatient Services for GA
148.140	Hospital Outpatient and Clinic Services
148.150	Payment for Hospital Services During Fiscal Year 1982
148.160	Payment for Hospital Services During Fiscal Year 1983
148.170	Limits on Length of Stay by Diagnosis
148.180	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting
148.190	Copayments
148.200	Payment Methodology
148.210	Non-Participating Hospitals
148.220	Pre July 1, 1989 Services
148.230	Post June 30, 1989 Services
148.240	Prepayment Review
148.250	Base Year Costs
148.260	Restructuring Adjustment
148.270	Inflation Adjustment
148.280	Groupings
148.290	Rate Calculation
148.300	Payment
148.310	Review Procedure
148.320	Alternatives
148.330	Exemptions
148.340	Subacute Alcoholism and Substance Abuse Services
148.350	Definitions
148.360	Types of Subacute Alcoholism and Substance Abuse Services
148.370	Payment for Subacute Alcoholism and Substance Abuse Services

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Section

148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Services

148.390 Hearings

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1989, Ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

AGENCY NOTE: The text of Section 148.140 which appears below does not include the emergency amendment adopted at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days. The copy filed in the Administrative Code Division reflects both the adopted and emergency amendments.

Section 148.140 Hospital Outpatient and Clinic Services

- a) Reimbursement to hospitals for claims for services provided prior to July 1, 1983 will be calculated and paid in accordance with the statutes and administrative rules governing the time period in question (see Sections 148.150, 148.160 and 89 Ill. Adm. Code 140.460 thru 140.467, and ~~Emergency Rules-89-1117-Adm-Code-150.10-through-150.90~~).

b) Reimbursement

- 1) Reimbursement for hospital outpatient and clinic services provided on or after July 1, 1983, shall be made on a fee for service basis.
- 2) Reimbursement levels shall be at the lower of the hospital's usual and customary charge to the public or the Department's statewide maximum reimbursement screens. Hospitals will be

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Section 148.140

Hospital Outpatient and Clinic Services (Cont'd)

required to bill the Department utilizing those specific service codes and client coverage policies (relating to client eligibility and scope of services available to those clients) which apply to the service in question and which are used by non-hospital providers who bill on a fee for service or other basis for such services.

- 3) Reimbursement for the fee codes established 7/1/83-July 1, 1983, and implemented through 3/31/86-March 31, 1986, for procedures performed in a hospital setting will be calculated and paid in accordance with the statutes-statutes and administrative rules governing the time period in question.

- 4) Effective April 1, 1986, additional fee codes will be established for outpatient procedures performed in a hospital setting. Procedures will be grouped and reimbursed according to whether they are high level technology surgical procedures or other procedures. High Level Technology Surgical Procedures are those which either require general or spinal anesthesia or require any two of the following three criteria: the use of special equipment, a major surgical pack as opposed to a minor surgical pack, or longer than one hour of surgical time. High level technology surgeries will be reimbursed at the lower of actual charges or that hospital's inpatient contract rate (per diem rate for non-contracting hospitals) equivalent to a one day inpatient stay. Other ambulatory surgical, specialized cardiac and diagnostic procedures will be reimbursed at the lower of actual charges or the Department's designated payment maximum. Two groupings will be used to establish the State maximums - major teaching and other hospitals. A major teaching hospital is one having four or more graduate medical education programs - accredited by the American Medical Association, the American Dental Association or the American Osteopathic Association-and-a-separate-service index-of-at-least-40. The specialized treatment

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Section 148.140 Hospital Outpatient and Clinic Services
(Cont'd)

procedures, high risk and emergency room visits will be reimbursed according to fiscal year 1986 payment methodology. Certain high level technology services recognized and approved by the Department as safe outpatient procedures will be reimbursed in a category separate from other specialized cardiac procedures and diagnostic procedures. This special category currently includes the following procedures: Magnetic Resonance Imaging (MRI), Computerized Axial Tomography (Cat Scan), and Cardiac Catheterization.

5) A list of restricted inpatient procedures pursuant to Section 148.180(b) will be

established and those procedures will only be reimbursed when performed outside the inpatient setting or when the hospital supplies justification for an inpatient admission that meets Departmental established criteria. These criteria include, but are not limited to:

- A) Presence of medical conditions which make prolonged post-operative observations by a nurse or skilled medical personnel a necessity (e.g., heart disease, severe diabetes).
- B) An unrelated procedure is being done simultaneously which itself requires surgical hospitalization.
- C) The patient is unable to comprehend and/or follow the necessary instruction both prior to and following the procedure due to mental and/or physical impairment, and this would result in inadequate treatment and place the patient at risk.
- D) Emergency admission or recent onset of severe symptoms would prohibit safely performing the procedure on an outpatient basis (e.g., bleeding, severe pain, nausea, vomiting).
- E) Admission occurs subsequent to the

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Section 148.140 Hospital Outpatient and Clinic Services
(Cont'd)

performance of the procedure on an outpatient basis due to conditions such as:

- i) instability of vital signs
- ii) respiratory distress greater than existed pre-operatively
- iii) post-operative pain not relieved by oral medication
- iv) uncontrolled bleeding
- v) lack of state of consciousness appropriate to age and development
- vi) presence of persistent nausea or vomiting
- vii) inability to ambulate consistent with age, previous mobility status and/or procedure.

- 6) Reimbursement levels for additional fee codes that are eligible for payment pursuant to Sections 148.140(b)(4) and (5) - subsections (b)(4) and (5) will be at the lower of the hospital's actual charge or the Department's designated payment maximum. This payment shall be considered full and final payment for those procedures performed. The rate levels designed for each group of ambulatory procedures are calculated to ensure spending approximately the full fiscal year-1987-Hospital Ambulatory-Care-Appropriation.

- c) Payment for outpatient end-stage renal disease treatment (ESRD) services provided pursuant to Section 148.40(c) shall be made at the Department's payment rates, as follows:

- 1) For inpatient hospital services provided pursuant to 148.40(c)(1), the Department shall reimburse hospitals pursuant to Sections 148.200 through 148.330 and 89 Ill. Adm. Code 149.

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Section 148.140 Hospital Outpatient and Clinic Services
(Cont'd)

- 2) For outpatient services or home dialysis treatments provided pursuant to Section 148.40(c)(2) or (3), the Department will reimburse hospitals and clinics for ESRDT services at a rate which will reimburse the provider for the dialysis treatment and all related supplies and equipment, as defined in 42 CFR 405.231(o) (1984). This rate will be that rate established by Medicare pursuant to 42 CFR 405.439 and 405.441 {1984}{1989}.
- 3) Payment for non-routine services. For services which are provided during outpatient or home dialysis treatment pursuant to Section 148.40(c)(2) or (3) but are not defined as a routine service under 42 CFR 405.231(o) {1984}{1989}, separate payment will be made to independent laboratories, pharmacies, and medical supply providers pursuant to 89 Ill. Adm. Code 140.430 through 140.434, 140.440 through 140.450, and 140.475 through 140.481, respectively.
- 4) Payment for physician services relating to ESRDT will be made separately to physicians, pursuant to 89 Ill. Adm. Code 140.400.
- d) Statewide fee screens for outpatient and clinic services shall be increased for fiscal year 1985 over those used in fiscal year 1984 by a weighted average 10 percent rate increase.

(Source: Amended at 14 Ill. Reg. 15358, effective September 13, 1990)

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NOTICE OF ADOPTED AMENDMENTS

- 1) The Heading of the Part: MEDICAL PAYMENT
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Adopted Action:
140.475 Amendment
140.476 Amendment
140.477 Amendment
140.478 Amendment
140.479 Amendment
140.480 Amendment
140.481 Amendment
- 4) Statutory Authority: Sections 5-5 et seq. and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 5-5 et seq. and 12-13)
- 5) Effective Date of Amendments: September 12, 1990
- 6) Does this rulemaking contain an automatic repeal date?
Yes ☐ No ☒
- 7) Do these Amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: September 12, 1990
- 9) Notices of Proposal Published in Illinois Register: September 29, 1989 (13 Ill. Reg. 15281)
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version:
Added the phrase "Long Term Care Facilities" as the heading for Section 140.476(a).
In Section 140.475(b)(5), in line 6, changed "89 Ill. Adm. Code" to "Section".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these Amendments replace an Emergency Amendment currently in effect? No
- 14) Are there any Amendments pending on this Part? Yes

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.413	Amendment	March 30, 1990 (14 Ill. Reg. 4860)
140.461	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.462	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.462	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.463	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.471	Amendment	June 8, 1990 (14 Ill. Reg. 8929)
140.472	Amendment	June 8, 1990 (14 Ill. Reg. 8929)
140.473	Amendment	June 8, 1990 (14 Ill. Reg. 8929)
140.474	Amendment	June 8, 1990 (14 Ill. Reg. 8929)
140.485	Amendment	September 7, 1990 (14 Ill. Reg. 14317)
140.486	Repealed	September 7, 1990 (14 Ill. Reg. 14317)
140.487	Amendment	September 7, 1990 (14 Ill. Reg. 14317)
140.488	New Section	September 7, 1990 (14 Ill. Reg. 14317)
140.523	Amendment	September 14, 1990 (14 Ill. Reg. 14681)
140.528	Amendment	May 11, 1990 (14 Ill. Reg. 7027)
140.529	Amendment	July 20, 1990 (14 Ill. Reg. 11672)

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NOTICE OF ADOPTED AMENDMENTS

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.539	Amendment	July 6, 1990 (14 Ill. Reg. 10629)
140.542	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.543	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.544	Repealed	March 23, 1990 (14 Ill. Reg. 4415)
140.545	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.562	Amendment	August 31, 1990 (14 Ill. Reg. 13963)
140.569	Amendment	May 25, 1990 (14 Ill. Reg. 7834)
140.642	Amendment	March 2, 1990 (14 Ill. Reg. 3019)
140.646	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.647	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.648	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.649	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.650	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.652	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140. Table A	Repealed	September 7, 1990 (14 Ill. Reg. 14317)
140. Table H	Amendment	March 2, 1990 (14 Ill. Reg. 3019)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Adopted Amendments: This rulemaking will facilitate the approval process for developmentally disabled individuals receiving needed medical equipment as they move from larger institutions to smaller group care living arrangements. This rulemaking also clarifies and updates existing rules relating to medical supplies and equipment.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Name: Daniel Leikvold, Staff Attorney
Office of the General Counsel

Address: Illinois Department of Public Aid
Jesse B. Harris Building II
100 South Grand Avenue East, 3rd Floor
Springfield, Illinois 62762

Telephone: (217)782-1233

The full text of the Adopted Amendments begin on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section
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Incorporation By Reference
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Covered Services Under The Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Infants Under Age One Year Who Do Not Qualify As Mandatory Categorically Needy
Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
Covered Medical Services Under GA and AMI
Medical Services Not Covered
Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Six
Medical Assistance For Qualified Severely Impaired Individuals
Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
Medical Assistance Provided to Incarcerated Persons

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SUBPART B: MEDICAL PROVIDER PARTICIPATION/DRUG MANUAL

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Enrollment Conditions for Medical Providers
Participation Requirements for Medical Providers
Definitions
Denial of Application to Participate in the Medical Assistance Program
Recovery of Money
Termination of a Vendor's Eligibility to Participate in the Medical Assistance Program
Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program

DEPARTMENT OF PUBLIC AID
NOTICE OF ADOPTED AMENDMENTS

Section 140.202	Payment for Hospital Services During Fiscal Year 1993 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)
140.373	Utilization (Repealed)
140.374	Alternatives (Recodified)
140.375	Exemptions (Recodified)
140.376	Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390	Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391	Definitions (Recodified)
140.392	Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394	Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396	Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.398	Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.400	Payment to Practitioners, Nurses and Laboratories
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services

DEPARTMENT OF PUBLIC AID
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Section 140.18	Effect of Termination on Individuals Associated with Vendor
140.19	Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20	Submittal of Claims
140.21	Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.22	Magnetic Tape Billings
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for items or Services When Prior Approval Cannot Be Obtained
140.71	Drug Manual (Recodified)
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: HOSPITAL SERVICES

Section 140.94	Hospital Services (Recodified)
140.95	Participation (Recodified)
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)

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140.426	Limitations on Podiatry Services
140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry
140.428	Chiropractic Services
140.429	Limitations on Chiropractic Services (Repealed)
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140.452	Mental Health Clinic Services
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140.454	Types of Mental Health Clinic Services
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140.527	Quality Incentive Survey
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Service Needs (Recodified)
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Basic Rehabilitation Aide Training Program (Recodified)
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HSA Grouping

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12858, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; recodified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg.

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10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069,

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7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 29, 1984; amended at 8 Ill. Reg. 22155, effective October 29, 1984; emergency amendment at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at

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effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7025, effective April 24, 1989; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; emergency amendment at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective September 12, 1990.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.475 Medical Equipment, Supplies and Prosthetic Devices

- a) Payment for the provision of medical equipment, supplies and prosthetic devices shall be made to participating providers.
- b) Payment for medical equipment, supplies and prosthetic devices shall be made when:
 - 1) they are essential to enable a recipient to remain at home or to function in the community;
 - 2) the recipient's physician has recommended in writing to the Department or in a patient care plan that the supplies or equipment be provided and that they are medically necessary; and
 - 3) the Department has approved payment based on consideration of the recipient's medical condition, the benefits the item is expected to effect, and the recipient's ability to adjust to and to use the item recommended.
 - 4) the recipient is not eligible for services from the Department of Rehabilitative Services or the Division of Services for Crippled Children.
 - 5) The Individual Program Plan (IPP) of an individual with developmental disabilities residing in an ICF/DD identifies the equipment, supplies and prosthetic devices which are necessary for his/her participation in active treatment as described in Section 140.642 (LIC Screening Assessment).
- c) Payment shall be made for the repair of prosthetic devices and medical equipment owned by recipients if the age and condition of the device or equipment is such that the cost of repair is less than 75% of the cost of replacement.
- d) ~~Effective with services provided June 1, 1986, and after, payment~~ Payment shall be made for loaner items issued pending repair or replacement of prosthetic devices and medical equipment owned by recipients if

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Section 140.475 Medical Equipment, Supplies and Prosthetic Devices (Cont'd)

it is the usual practice of the supplier to provide and charge for such items.

e) Vital Covered services are:

- 1) Non-durable medical supplies for an individual's life maintenance care and treatment;
- 2) Durable medical supplies essential to expedite a hospital discharge and to enable the person to be cared for at home;
- 3) Prostheses and orthoses which are essential to expedite a hospital discharge enhance functional mobility or essential for employment;
- 4) Respiratory equipment and supplies necessary as a life saving measure or for prevention of a medical emergency, institutionalization, or to facilitate deinstitutionalization, or to prevent institutionalization;
- f) Effective with services provided June 1, 1986 and after payment shall be made for vital covered services on a prior approval basis, except for repair/replacement of medical equipment and prosthetic/orthotic devices, as provided under Section 140.477.

(Source: Amended at 14 Ill. Reg. 15366, effective September 12, 1990).

Section 140.476 Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made

Payment shall not be made for:

a) Long Term Care Facilities

- 1) Medical equipment or supplies required by a recipient which a group care facility is responsible for providing
- 2) A group care facility is required to provide medical equipment, devices and supplies commonly

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Section 140.476

Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made (Cont'd)

used in patient care as a part of the per diem reimbursement paid by the Department. Such items include, but are not limited to the following:

- 1) Durable medical equipment or supplies required by an individual in a long term care facility which are commonly used in patient care and considered as a part of the per diem reimbursement paid by the Department. Such items include, but are not limited to the following:

- A) Equipment: Canes, crutches, standard wheelchairs, walkers, commodes, beds, mattresses, belts, cradles, trapeze bars, patient lifts, bedpans, urinals, suction equipment, supplies, hypothermia units, apnea monitors, and equipment necessary for the administration of oxygen, bedpans, urinals
- B) Supplies: Catheters, urinary drainage bags, first aid supplies, dressings, soaps, and irrigation supplies, drinking tubes, and other supplies commonly used in providing necessary to provide patient care.

- 2) Equipment required for a resident of a LTC facility, unless the equipment must be made to order for an identified recipient and based on a medical need, or which is identified by the Individual Program Plan (IPP) of an individual with developmental disabilities as necessary to fulfill the requirements for active treatment services.

b) Items or services which are not medically necessary to treat the recipient's disease, disability, infirmity or impairment.

c) Prostheses inserted or implanted which do not increase physical capacity, overcome a handicap, restore a physiological function, or eliminate a functional disability.

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Section 140.476

Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made (Cont'd)

- d) Items or services which the Department has not approved, prior authorized, if appropriate.
- e) Stock orthopedic shoes, unless attached to used in conjunction with a brace.
- f) Major bracing and prostheses unless recommended by an approved amputee clinic or rehabilitation center.

(Source: Amended at 14 Ill. Reg. 15366, effective September 12, 1990)

Section 140.477 Limitations on Equipment, Supplies and Prosthetic Devices

Effective with services provided June 1, 1986 and after, prior approval for the provision or replacement of certain medical equipment, supplies and prostheses is required except when:

- a) The client is a Medicare beneficiary and the item requested is covered has been reimbursed under the Medicare program; or
- b) Repair costs do not exceed 75% of the purchase price; or
- c) The item is being loaned pending repair or replacement of the recipient's own item; or
- d) Items are replaced within 24 months of purchase date as long as all the following criteria are met:
 - 1) The item is not under warranty, and
 - 2) The item was not faulty at time of purchase, and
 - 3) The original purchase was made by the Department for the same recipient for whom the replacement is being initiated, and
 - 4) The original item is either not repairable or the cost of repairs is more than or equal to the replacement, and

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Section 140.477

Limitations on Equipment, Supplies and Prosthetic Devices (Cont'd)

- 5) The replacement item is new and equivalent to the original item purchased.

(Source: Amended at 14 Ill. Reg. 15366, effective September 12, 1990.)

Section 140.478 Prior Approval for Medical Equipment, Supplies and Prosthetic Devices

- a) The following time frames shall be adhered to by the Department when prior approval is required for medical equipment and orthotic/prosthetic devices (see also Section 140.40):

- 1) Decisions to approve or deny a request for prior approval respiratory aid and equipment will be made within 30 days of the date of the request. Prior approval is not required for the first 30 days of service.
- 2) Decisions to approve or deny requests for artificial limbs and braces shall be made within 21 days of the date of the request.
- 3) Decisions to approve or deny requests for standard wheelchairs and hospital beds shall be made within 21 days of the date of the request.
- 4) Decisions to approve or deny requests for hearing aids, custom molded shoes, shoe corrections, ~~orthopedic shoes to which a brace is attached,~~ used in conjunction with a brace, and custom wheelchairs, shall be made within 30 days of the request.
- 5) Decisions to approve or deny requests for medical supplies costing less than \$100 shall be made within 21 days of the date of the requests.
- 6) Decisions to approve or deny requests for medical supplies costing more than \$100 shall be made within 30 days of the date of the request.

- b) ~~1)~~ Post approval may be requested. Post approval

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Section 140.478 Prior Approval for Medical Equipment, Supplies and Prosthetic Devices (Cont'd)

will be granted in circumstances when prior approval could not be requested, such as:

- A)1) determination of the patient's eligibility for public assistance was delayed;
- B)2) emergency approval could not be obtained;
- C)3) other third party resources denied payment.

-2) and the requirements for prior approval are met.

(Source: Amended at 14 Ill. Reg. 15366, effective September 12, 1990)

Section 140.479 Approval of Limitations, Medical Supplies

Approval of medical supplies will be limited to the quantity indicated by the ordering practitioner or to a reasonable quantity for a thirty-day period, month. Once the total quantity specified by the ordering practitioner has been provided or the period of time shown on the approval request has elapsed, a new written order must be obtained except for

a) ~~Diabetic supplies--practitioner's written recommendation renewed every 12 months~~

b) ~~Ostomy supplies~~

c) ~~Permanent urinary incontinence supplies~~

da) Frequently used supplies for a patient followed up by an approved rehabilitation facility or amputee clinic--these require a Practitioner's written recommendation renewed every 12 months.

AGENCY NOTE: See Sections 140.40 through 140.42 for prior approval requirements.

b) Frequently used supplies for patients whose diagnosis indicates an ongoing chronic need for supplies, the practitioner's written recommendation must be renewed every 12 months. Diagnoses indicating a chronic long term need, include but are not limited to: quadriplegia, paraplegia, urinary incontinence.

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Section 140.479 Approval of Limitations, Medical Supplies (Cont'd)

diabetes, permanent colostomy, ileostomy or ureterostomy, neurogenic bladder, tracheostomy and hydrocephalus.

(Source: Amended at 14 Ill. Reg. 15366, effective September 12, 1990)

Section 140.480 Equipment Rental Limitations

Total cumulative rental costs must not exceed the usual retail price of the medical equipment except for durable equipment used for respiratory care. When total cumulative rental costs exceed the purchase price, the Department considers the equipment paid for in full and the property of the Department. Effective with services provided on and after June 17, 1986, durable medical equipment used for respiratory care shall be obtained on a rental or lease basis only. Rental charges must be terminated after the recipient's need for the equipment ceases to exist.

(Source: Amended at 14 Ill. Reg. 15366, effective September 12, 1990)

Section 140.481 Payment for Medical Equipment, Supplies and Prosthetic Devices

a) Payment for Medical Equipment. Medical equipment is durable, reusable equipment such as wheelchairs, hospital beds, canes, walkers, etc. Payment for medical equipment is made for covered items or services at the lesser of the provider's charge or the acquisition cost. The initial acquisition cost for each item of medical equipment is the median suggested retail price from the prices taken from the manufacturers' most recent price catalogues for widely accepted quality items. A task force comprised of participating medical equipment providers selected by the Department shall select manufacturers which in their professional judgment furnish widely accepted quality items. Widely accepted quality items are items which are not below average quality for like medical equipment and which are available statewide. After the initial acquisition cost for each item of medical equipment is determined, as specified above,

DEPARTMENT OF PUBLIC HEALTH
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September 1, 1990

6) Does this Rulemaking Contain an Automatic Repeal Date? Yes ☐ No ☒

If "yes," please specify date:

7) Does this Rulemaking Contain Any Incorporations by Reference? Yes ☐ No ☒If "yes," please specify type: 6.02(a) ☐ or 6.02(b) ☐If "6.02(b)," was a copy of the approval form issued by the Joint Committee attached to this rulemaking? Yes ☐ No ☐8) Date Filed in Agency's Principal Office:

September 1, 1990

9) Date Notice(s) of Proposal was Published in Illinois Register:

February 2, 1990 - 14 Ill. Reg. 1755

10) Has the Joint Committee on Administrative Rules issued a Statement of Objections to this/these Rules? Yes ☐ No ☒

If "yes," please complete the following:

- A) Statement of Objection: ☐ Ill. Reg. ☐
- B) Agency Response: ☐ Ill. Reg. ☐
- C) Date Agency Response Submitted for Approval to the Joint Committee:

11) Difference Between Proposal and Final Version:

The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 535.10, the alphabetical order of "Registered Nurse" has been changed by placing it after "Project Medical Director".
2. In Section 535.20 (a)(2), "KKK-A-1822 B" has been changed to "KKK-A-1822 C".
3. In Section 535.20 (a)(3), "535.535(b)" has been added.

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4. In Section 535.20 (a)(4), the reference to Section 535.400 (h) has been changed to (d) and "535.432 (b)" has been added.
5. In Section 535.20 (a)(5), "535.532 (b)" has been added.
6. In Section 535.150 (b)(1)(A)(iv), "Provided with 3 point fasteners to sidewall and floor" has been changed to "Provided with 3 point fasteners to sidewall and/or floor".
7. In Section 535.150 (c), the reference to "Section 535.150 (b)" has been changed to "subsection (b)".
8. In Section 535.150 (b)(4)(C), the words "and gauge" has been added.
9. In Section 535.150 (b)(5), the following has been added "(CC) Face protection".
10. In Section 535.150 (b)(2)(B)(iii), "10" has been changed to "15".
11. In Section 535.150 (g)(3), a comma has been inserted after "skin condition" and the word "and" has been deleted. The following has been added after "level of consciousness": "chief complaint and any treatment rendered".
12. In Section 535.150 (f)(1), the words, "Field RNs or physicians" has been inserted after "EMTs".
13. In Section 535.150 (f)(2) has been deleted and replaced by "Each ambulance used as an Intermediate Life Support vehicle shall be staffed by a minimum of one EMT-I, Field RN or physician and one other EMT, Field RN or physician. Each ILS vehicle using defibrillation shall be staffed by a minimum of one EMT-I approved by the Project Medical Director for defibrillation, a Field RN or physician and one other EMT, Field R.N. or physician. Each ambulance used as an Advanced Life Support vehicle shall be staffed by a minimum of one EMT-P, Field RN or physician and one other EMT, Field RN or physician."
14. Preceding Section 535.200, the words "Subpart D: Emergency Medical Services Program - General," have been inserted.
15. In Section 535.200 (b), "Subsection" has been changed to all lower case and "535.200" has been deleted.
16. In Section 535.210 (1)(6), the words "of the estimated time of arrival" has been inserted after "emergency vehicle". The words "is responding outside its primary coverage area" have been deleted and replaced by "response is estimated to be longer than six minutes".

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17. Section 535.330 (a)(2)(A) has been restored to read "Successful completion of a twenty (20) hour refresher training program."
18. In Section 535.330 (a)(2)(C), "Forty eight (48)" has been changed to "Forty (40)" and the following sentence has been added: "No more than twenty five percent (25%) of those hours may be in the same subject".
19. Section 535.330(b) has been restored except for "and continuing education." The words "and qualifications of instructors" have been added after "programs" in the first sentence. A final sentence has been added, to read "Qualifications of instructors shall be consistent with Section 535.300(e) and (f)."
20. In Section 535.400 (g), the words "be an EMT-I, and EMT-P, a Registered Nurse or a physician and shall" have been added after "shall".
21. In Section 535.410, "(g)" has been changed to "(f)".
22. Section 535.430 (a)(2)(A). has been changed to read "Successfully completing a twenty hour refresher training program".
23. Section 535.430(b) has been restored and the words "refresher training programs and qualifications of instructors and" have been added after "Composition of" in the first sentence. A final sentence has been added, to read "Qualifications of instructors shall be consistent with Section 535.400(f)."
24. In Section 535.500 (f), "Section 535.500" has been changed to "subsection".
25. The proposed Section 535.500 (h) language has been deleted and original language in (h) restored.
26. In Section 535.540 (b), "Section 535.540" has been changed to "subsection".

The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:

In determining whether to lift the suspension the Director will consider whether or not patient care is compromised" has been added to the last sentence in Section 535.110(e).

In addition, various typographical, grammatical and form changes were made in response to the comments from the Administrative Code Division and the Joint Committee on Administrative Rules.

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- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee?

The Department has made all the changes to which it agreed with the Joint Committee.
- 13) Will the Rules Replace an Emergency Rule Currently in Effect?
Yes No X
- 14) Are there any other Amendments Pending on this Part? Yes No X

If Yes:

Section Numbers

Proposed Action

Ill. Reg. Citation

15) Summary and Purpose of Rules:

The Emergency Medical Services program includes rules for the licensure of ambulances, the certification of ambulance personnel (EMTs) and the approval of EMS Systems. The proposed changes to these rules will clarify areas in which the Department and the Emergency Medical Services Council believed more specific language was needed.

In Section 535.10, the words "Ambulance Service Provider" have been added to the definition of "Ambulance Provider" in accordance with P.A. 86-439.

In Section 535.10, the definition of "Emergency Medical Technician - Paramedic" has been changed so that no sponsorship or employment shall be required for training or holding certification as an EMT-P in accordance with P.A. 85-1246.

In Section 535.100, language has been added so that ambulance service providers rather than vehicles can be licensed in accordance with P.A. 86-439.

Section 535.110 has been expanded to include provisions for nonrenewal, suspension or revocation of an ambulance license in addition to denial of license.

In Section 535.120, language was added to specify that applications for removal of licenses must be on a form furnished by the Department.

In Section 535.150 (a)(1) and (2), the federal agency citation has been corrected to read "the U.S. General Services Administration's".

In Section 535.150 (b)(1)(A)(iv), 3-point fasteners for patient litters are specified.

In Section 535.150 (b)(4)(M), the option of a lateral C-Spine and head immobilization device has been added to the approved equipment for ambulances.

In Section 535.150 (b)(5)(Q)(vi), skin condition has been added to the minimum information required on an ambulance run sheet.

In Section 535.150 (b)(5)(AA), non-porous disposable gloves have been added to the medical supplies required on an ambulance.

In Section 535.150 (b)(5)(BB), an isolation bag has been added to the medical supplies required on an ambulance.

In Section 535.150 (g)(1), a statement has been added that "Any operation of an ambulance while transporting a patient to a hospital shall be done in accordance with the requirements of the Act and this Part."

In Section 535.150 (g)(2), language has been changed to be more specific.

In Section 535.150 (g)(3), a list detailing the minimum physical conditions which must be recorded for each patient transported to a hospital has been added.

Section 535.150 (g)(4) has been reworded to be more specific.

Section 535.150 (g)(5) has been reworded for clarity.

In Section 535.200 (j), a list has been added which details those changes which shall be considered modifications of a System Program Plan.

In Section 535.210 (h)(5), a requirement that a Resource Hospital develop or approve ambulance run sheets has been added.

In Section 535.210 (i)(6), a requirement that a Resource Hospital develop a protocol for informing a person requesting an ambulance when the vehicle is responding outside its primary coverage area has been added.

In Section 535.210 (k)(20), a requirement that an ambulance provider participating in an EMS System must agree to follow the approved EMS policies and protocols of the System has been added.

In Section 535.210 (m)(8)(L), "physician on the scene" was added to the list of issues for which medical-legal policies must be developed.

In Section 535.265 (b), language was added to allow the System Review Board to modify a suspension as well as affirm or reverse it. In the same

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Subsection, language was added to make the Board's decision binding unless it is reversed or modified by the State EMS Disciplinary Review Board.

In Section 535.265 (d), an inaccurate citation has been corrected.

Section 535.300 (a) has been reworded for clarity.

In Section 535.300 (b), applications for approval of training programs will be required to be submitted sixty days in advance of a class instead of thirty days.

Section 535.300 (c) has been changed to correct the citation of the U.S. DOT Curriculum.

Section 535.300 (g) has been reworded for clarity.

Sections 535.300 (h) and (i) have been reorganized and reworded for clarity.

Section 535.310 (a) has been changed to correct the citation of the U.S. DOT Curriculum.

Section 535.310 (b) has been reworded for clarity.

Sections 535.310 (a) and (b) have been reorganized and reworded for clarity.

In Section 535.310 (c), a requirement has been added that a candidate must hold a high school diploma or equivalent.

In Section 535.320, the Department's requirements for EMT-A certification have been reworded for clarity.

In Section 535.330 (a)(2)(A), the requirement of 20 hours of refresher training has been deleted and the definition of "a current CPR certificate" has been expanded to detail what is specifically required.

Section 535.330 (b) has been reworded for clarity and moved to a new Section 535.335, EMT-A Continuing Education.

Section 535.335 has been added to specifically state approval requirements for continuing education.

Section 535.350 provided a penalty for individuals who actively function as EMT-As without current certification. This penalty is based on Section 5520 of the Act; this Section of the Act, however, refers to ambulance operation and employers, not to individuals who may function as an EMT-A. Since the penalty clause is based on an incorrect interpretation of the Act, the Department has repealed it.

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In Section 535.400 (a), a statement that an EMT-I program can only be conducted by an EMS System has been added for clarity.

Section 535.400 (b) has been reworded for clarity.

In Section 535.400 (c), applications for approval of training programs will be required to be submitted sixty days in advance of a class instead of thirty days.

In Section 535.400 (d), the citation of the U.S. DOT Curriculum has been corrected and modules of the curriculum required have been spelled out. Redundant language has been deleted.

In Section 535.400 (e), "will" has been changed to "shall".

Section 535.400 (f) has been reworded for clarity.

Section 535.400 (h) contains the provisions formerly in (k), reworded for clarity.

Section 535.400 (j) requires that an EMS System vehicle be available to accommodate a candidate's field experience.

In Section 535.400 (k), language requiring a second student roster is deleted.

Section 535.410 (a) has been changed to correct the U.S. DOT citation.

In Section 535.410 (b), language has been added to permit the Department's designee to administer the State examination. In addition, the Subsection has been reworded for clarity.

Section 535.410 (c) setting forth requirements to be met prior to testing has been deleted.

Section 535.420 has been reorganized and reworded for clarity.

In Section 535.420 (a)(2), the description of the required field internship has been expanded.

In Section 535.430 (a)(2)(A), the requirement of 20 hours of refresher training has been deleted and the definition of "a current CPR certificate" has been expanded to detail specific requirements.

In Section 535.430 (b), procedures for denial of recertification have been set forth and language regarding continuing education has been moved to Section 535.432 (a).

A new Section 535.432 has been added which sets forth all requirements for

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EMT-I continuing education.

Section 535.440 (a)(6) and (c) have been reworded for clarity.

Section 535.440 (d) has been repealed.

Section 535.450 was based on an incorrect interpretation of the Act and has been repealed.

In Section 535.500 (a), a statement that an EMT-P program can only be conducted by an EMS System has been added for clarity.

Section 535.500 (b) has been reworded for clarity.

In Section 535.500 (c), applications for approval of training programs will be required to be submitted sixty days in advance of a class instead of thirty days.

In Section 535.500 (d), the citation of the U.S. DOT Curriculum has been corrected and redundant language has been deleted.

In Section 535.500 (e), redundant language has been deleted.

In Section 535.500 (g), language requiring employment or sponsorship has been deleted in accordance with P.A. 85-1246.

Section 535.500 (h) requires that an EMS System vehicle must be available for field experience.

In Section 535.500 (i), language requiring a second student roster has been deleted.

Section 535.500 (j) requires a Project Medical Director to submit a transaction card to IDPH for each EMT-P candidate.

In Section 535.510 (a), the U.S. DOT citation has been corrected.

In Section 535.510 (b), language has been added to permit the Department's designee to administer the State examination and the Subsection has been reworded for clarity.

Section 535.510 (c) setting forth requirements for testing has been deleted.

Section 535.510 (d) contains redundant language and has been deleted.

Section 535.520 has been reorganized and reworded for clarity.

In Section 535.520 (a)(2), the description of the required field

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internship has been expanded.

In Section 535.520 (a)(3), an EMT-P is required to be functioning in rather than employed by an EMS System agency, and this must be verified by the Project Medical Director.

Section 535.520 (b) has been reworded for clarity.

Section 535.520 (c) has been deleted.

In Section 535.530 (a)(2)(A), language requiring that continuing education hours be earned in accordance with the System's policies has been added.

In Section 535.530 (a)(2)(B), the definition of "a current CPR certificate" has been expanded to detail specific requirements.

In Section 535.530 (a)(2)(C), language requiring employment by an EMS vehicle agency has been deleted.

In Section 535.530 (c), language regarding continuing education has been moved to Section 535.532.

Section 535.532 has been added which sets forth all requirements for EMT-P continuing education.

Section 535.540 (a)(6) and (c) have been reworded for clarity.

Section 535.540 (d) and (e) have been deleted.

Section 535.550 was based on an incorrect interpretation of the Act and has been repealed.

In Section 535.650 (a)(4), the statutory citation has been corrected.

Section 535.750 has been expanded to set forth all requirements for applying for a waiver and the Department's standards for granting waivers.

In Section 535.900, a typographical error has been corrected.

In Section 535.920, several typographical errors have been corrected.

16) Information and Questions regarding this Adopted Rulemaking shall be directed to:

Mr. Robert John Kane, Division of Governmental Affairs, Department of Public Health, 525 West Jefferson, Second Floor, Springfield, Illinois 62761, 217/782-6187.

The full text of the Adopted begins on the next page:

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SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY
PART 535
EMERGENCY MEDICAL SERVICES CODE

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535.20 Incorporated Materials

SUBPART B: COMMUNICATIONS

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SUBPART C: LICENSURE OF AMBULANCES SERVICE PROVIDERS

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535.100 Licensure of Ambulances Service Providers - General
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535.200 Emergency Medical Services System Program - General
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 535.310 EMT-A Testing
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SUBPART F: EMERGENCY MEDICAL TECHNICIAN - INTERMEDIATE TRAINING (EMT-I)

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SUBPART G: EMERGENCY MEDICAL TECHNICIAN - PARAMEDIC TRAINING (EMT-P)

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 535.500 Emergency Medical Technician - Paramedic Training - General
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 535.540 EMT-P Inactive Status
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SUBPART H: RECIPROCITY

Section
 535.600 Reciprocity

SUBPART I: SUSPENSION, REVOCATION AND DENIAL OF CERTIFICATION OF EMT's

Section
 535.650 Suspension, Revocation and Denial of Certification of EMT's

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SUBPART J: DATA COLLECTION AND EVALUATION

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 535.700 Data Collection and Evaluation

SUBPART K: WAIVER PROVISIONS

Section
 535.750 Waiver Provisions

SUBPART L: REGISTERED PROFESSIONAL NURSE (FIELD RN/MICN)

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 535.800 General Provisions
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 535.900 Certification of SEMSV Programs - General
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 535.953 Off-Road Communications and Dispatch Center

AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act (Ill. Rev. Stat. 1989^{1/2}, ch. 111 1/2, pars. 5501 et seq.)

SOURCE: Adopted at 5 Ill. Reg. 5670, effective May 19, 1983; amended and

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PART PROMULGATED PURSUANT TO THE ACT. (Section 4.03 of the Act).

"Aeromedical crew member" or "Watercraft crew member" or "Off-road SEMSV crew member" means an individual, other than an EMS pilot, who has been approved by a SEMSV Medical Director for specific medical duties in a helicopter or fixed-wing aircraft, on a watercraft, or on an off-road SEMSV used in a Department-certified SEMSV program (See Sections 535.932(a) and (b), or 535.940(8)(B) through (D), or 535.950(7)(A) and (B) of this Part).

"Alternate Project Medical Director" or "Alternate PMD" means the physician who is designated by the Resource Hospital to direct the ALS/ILS operations in the absence of the Project Medical Director.

"AMBULANCE" MEANS ANY PUBLICLY OR PRIVATELY OWNED VEHICLE THAT IS SPECIFICALLY DESIGNED, CONSTRUCTED OR MODIFIED AND EQUIPPED, AND IS INTENDED TO BE USED FOR, AND IS MAINTAINED OR OPERATED FOR THE EMERGENCY TRANSPORTATION OF PERSONS WHO ARE SICK, INJURED, WOUNDED OR OTHERWISE INCAPACITATED OR HELPLESS (See Subpart C of this Part). (Section 4.05 of the Act).

"Ambulance Service Provider" or "Ambulance Provider" means any individual, group of individuals, corporation, partnership, association, trust, joint venture, individual doing business under an assumed name, unit of local government or other public or private ownership entity which owns and operates a business or service utilizing one or more ambulances or EMS vehicles for the transportation of emergency patients.

"Arcawide Hospital Emergency Medical Services (AHES) Committees" means those bodies formed pursuant to Section 1.1 of "AN ACT requiring hospitals to render hospital emergency service in case of injury or acute medical condition and to implement emergency hospital, medical and surgical services on a community or areawide basis" (111. Rev. Stat. 1989, ch 111 1/2, par. 86.1), and in compliance with the Hospital Licensing Requirements (77 Ill. Adm. Code 250.730).

"Associate Hospital" means a hospital participating in an approved EMS System in accordance with the EMS System Program plan, fulfilling the same clinical and communications requirements as the Resource Hospital. This hospital has neither the primary responsibility for conducting the mobile intensive care personnel training program nor the responsibility for the overall operation of the EMS System program. The Associate Hospital must have a basic or comprehensive Emergency Department with a 24-hour physician coverage. This hospital agrees to replace medical supplies and provide for equipment

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codified at 8 Ill. Reg. 11623, effective June 27, 1984; amended at 11 Ill. Reg. 1433, effective February 1, 1987; amended at 11 Ill. Reg. 17219, effective October 15, 1987; amended at 11 Ill. Reg. 20945, effective December 15, 1987; amended at 12 Ill. Reg. 22406, effective December 15, 1988; amended at 13 Ill. Reg. 15414, effective September 15, 1989; amended at 13 Ill. Reg. 15390, effective September 15, 1990; amended at 14 Ill. Reg. 15716, effective September 15, 1989; amended at 14 Ill. Reg. 15390, effective September 1, 1990.

NOTE: Capitalization denotes statutory language.

Section 535.10 Definitions

For the purposes of this Part:

"Act" means the Emergency Medical Services (EMS) Systems Act (111. Rev. Stat. 1989, ch. 111 1/2, pars. 5501 et seq.)

"Administrative Hearing" means a hearing conducted by the Department pursuant to a Department action to deny, suspend or revoke an EMT certification or an ambulance license, and in conformance with the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

"ADVANCED LIFE SUPPORT-MOBILE INTENSIVE CARE (ALS/MIC)(ALS)" MEANS AN ADVANCED LEVEL OF PRE-HOSPITAL AND INTER-HOSPITAL EMERGENCY CARE THAT INCLUDES BASIC LIFE SUPPORT FUNCTIONS, (INCLUDING CARDIOPULMONARY RESUSCITATION (CPR) PLUS CARDIAC MONITORING, CARDIAC DEFIBRILLATION, TELEMETERED ELECTROCARDIOGRAPHY, ADMINISTRATION OF MEDICATIONS, DRUGS AND AGENTS, INTRAVENOUS THERAPY, ADMINISTRATION OF MEDICATIONS, DRUGS AND SOLUTIONS, USE OF ADJUNCTIVE MEDICAL DEVICES, TRAUMA CARE, AND OTHER AUTHORIZED TECHNIQUES AND PROCEDURES) INITIATED FOR THE TREATMENT OF REAL OR POTENTIAL ACUTE LIFE THREATENING CONDITIONS UNDER THE DIRECTION OF A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN ALL OF ITS BRANCHES OR A REGISTERED PROFESSIONAL NURSE/MICN OR REGISTERED PROFESSIONAL NURSE/FIELD RN, AND WHERE AUTHORIZED BY THE PROJECT MEDICAL DIRECTOR IN AN ILLINOIS DEPARTMENT OF PUBLIC HEALTH APPROVED ADVANCED LIFE SUPPORT SYSTEM. (Section 4.01 of the Act).

"ADVANCED LIFE SUPPORT-MOBILE INTENSIVE CARE SERVICES (ALS-MIC)(ALS)" MEANS A HOSPITAL PROVIDING WITH THE APPROVAL OF THE ILLINOIS DEPARTMENT OF PUBLIC HEALTH (See Subpart D of this Part), PRE-HOSPITAL EMERGENCY MEDICAL CARE THROUGH THE USE OF ADVANCED LIFE SUPPORT-MOBILE INTENSIVE CARE PERSONNEL, EQUIPMENT AND VEHICLES UNDER THE DIRECTION OF A PROJECT MEDICAL DIRECTOR. (Section 4.02 of the Act).

"ADVANCED LIFE SUPPORT PERSONNEL" MEANS PERSONS ENGAGED IN THE PROVISION OF ADVANCED LIFE SUPPORT, AS DEFINED AND REGULATED BY THIS

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exchange for participating EMS vehicles.

"Associate Hospital EMS Coordinator" means the EMT-P or Registered Nurse at the Associate Hospital who shall be responsible for duties in relation to the ALS or ILS System, in accordance with the Department-approved EMS System Program Plan.

"Associate Hospital EMS Medical Director" means the physician at the Associate Hospital who shall be responsible for the day-to-day operations of the Associate Hospital in relation to the ALS or ILS System, in accordance with the Department-approved EMS System Program Plan.

"BASIC LIFE SUPPORT (BLS) SERVICES" MEANS THE RENDERING OF BASIC LEVEL OF PRE-HOSPITAL AND INTER-HOSPITAL EMERGENCY CARE, INCLUDING BUT NOT LIMITED TO AIRWAY MANAGEMENT, CARDIOPULMONARY RESUSCITATION, CONTROL OF SHOCK AND BLEEDING AND SPLINTING OF FRACTURES, AS OUTLINED IN A BASIC EMERGENCY CARE COURSE APPROVED BY THE DEPARTMENT AND MEETING THE CURRENT NATIONAL CURRICULUM OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION. (Section 4.06 of the Act).

"CENTRAL COMMUNICATIONS SYSTEM" MEANS A RADIO AND COMMUNICATIONS COMMAND AND CONTROL CENTER OR CENTERS RESPONSIBLE FOR ACCEPTING CALLS FROM THE PUBLIC FOR EMERGENCY MEDICAL SERVICES, FOR DISPATCHING EMERGENCY MEDICAL SERVICES PERSONNEL AND VEHICLES, FOR RADIO COORDINATION OF EMERGENCY MEDICAL SERVICES VEHICLES AND PERSONNEL, FOR COORDINATION OF MEDICAL COMMUNICATIONS BETWEEN EMERGENCY MEDICAL SERVICES PERSONNEL AND PUBLIC SAFETY AGENCIES, AND WHERE APPLICABLE, FOR COORDINATION AND MANAGEMENT OF RADIO FREQUENCIES DEVOTED TO BIOMEDICAL TELEMETRY. (Section 4.07 of the Act).

"Channel, Half-Duplex" means a radio channel that transmits and receives signals, but in only one direction at a time.

"CONSUMER" MEANS A PERSON IN THIS STATE WHO IS A RECIPIENT OR POTENTIAL RECIPIENT OF THE SERVICES PROVIDED BY AN EMERGENCY MEDICAL SERVICES SYSTEM, WHO RECEIVES NO DIRECT OR INDIRECT PERSONAL, FINANCIAL, OR PROFESSIONAL BENEFIT AS A RESULT OF AN ASSOCIATION WITH HEALTH CARE OR EMERGENCY SERVICES OTHER THAN THAT GENERALLY SHARED BY THE PUBLIC AT LARGE, AND WHO IS NOT OTHERWISE CONSIDERED A PROVIDER UNDER THE PROVISIONS OF THIS ACT. (Section 4.08 of the Act).

"DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH, STATE OF ILLINOIS. (Section 4.09 of the Act).

"DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH, STATE OF ILLINOIS. (Section 4.10 of the Act).

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"Dysrhythmia" means a variation from the normal electrical rate and sequences of cardiac activity, also including abnormalities of impulse formation and conduction.

"Effective Radiated Power (ERP)" means the power gain of a transmitting antenna multiplied by the net power accepted by the antenna from the connected transmitter.

"Electrocardiogram" means a single lead rhythm strip graphic recording of the electrical activity of the heart by a series of deflections which represent certain components of the cardiac cycle.

"EMERGENCY" MEANS A CONDITION OR SITUATION IN WHICH AN INDIVIDUAL DECLARES A NEED FOR IMMEDIATE MEDICAL ATTENTION OR WHEN THAT NEED IS DECLARED BY EMERGENCY MEDICAL PERSONNEL OR A PUBLIC SAFETY OFFICIAL. (Section 4.11 of the Act).

"EMERGENCY MEDICAL SERVICES (EMS) SYSTEM" MEANS AN ORGANIZATION OF PROVIDERS WHICH THROUGH A PROGRAM PLAN SUBMITTED TO AND APPROVED BY THE DEPARTMENT (pursuant to Subpart D of this Part) ENTITLES A HOSPITAL TO UTILIZE QUALIFIED PERSONNEL SPECIFIED IN THE ACT TO PROVIDE OR COORDINATE PRE-HOSPITAL AND INTER-HOSPITAL EMERGENCY CARE AT AN ADVANCED OR INTERMEDIATE LEVEL, TO VICTIMS OF ILLNESS OR INJURY WITHIN THE AREA SPECIFIED IN THE PROGRAM PLAN. ADVANCED OR INTERMEDIATE LEVEL SERVICES MAY INCLUDE THE UTILIZATION OF BLS LEVEL SERVICES. ONE HOSPITAL IN EACH PROGRAM PLAN MUST BE DESIGNATED AS THE RESOURCE HOSPITAL. ALL HOSPITALS AND AMBULANCE PROVIDERS PARTICIPATING IN AN EMS SYSTEM MUST SPECIFY THEIR LEVEL OF PARTICIPATION IN THE PROGRAM PLAN. (Section 4.18 of the Act).

"Emergency Medical Services System Survey" means a questionnaire which provides data to the Department for the purpose of compiling annual reports.

"Emergency Medical Services Vehicle (EMS vehicle)" means any vehicle used for BLS, ILS or ALS, as a special EMS unit or rescue vehicle, operating within an approved EMS System.

"EMERGENCY MEDICAL TECHNICIAN-AMBULANCE" OR "EMT-A" MEANS A PERSON WHO HAS SUCCESSFULLY COMPLETED A COURSE OF INSTRUCTION IN BASIC LIFE SUPPORT SERVICES AS REQUIRED AND IS CURRENTLY CERTIFIED BY THE DEPARTMENT IN ACCORDANCE WITH STANDARDS PRESCRIBED BY THE ACT AND THIS PART, WHO PROVIDES EMERGENCY MEDICAL SERVICES. (Section 4.12 of the Act).

"EMERGENCY MEDICAL TECHNICIAN INTERMEDIATE" OR "EMT-I" MEANS AN EMT-A CURRENTLY CERTIFIED BY THE DEPARTMENT WHO HAS COMPLETED A DEPARTMENT APPROVED COURSE OF INSTRUCTION (pursuant to Subpart F of this Part)

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IN SPECIFIC ADVANCED LIFE SUPPORT-MOBILE INTENSIVE CARE SERVICES AND WHO IS CURRENTLY FUNCTIONING IN A PROGRAM APPROVED BY THE DEPARTMENT TO PROVIDE SUCH SERVICES UNDER THE SUPERVISION AND CONTROL OF A PROJECT MEDICAL DIRECTOR. (Section 4.15 of the Act).

"EMERGENCY MEDICAL TECHNICIAN-PARAMEDIC" OR "EMT-P" MEANS A PERSON WHO HAS SUCCESSFULLY COMPLETED A DEPARTMENT APPROVED COURSE OF INSTRUCTION (pursuant to Subpart G) IN ADVANCED LIFE SUPPORT-MOBILE INTENSIVE CARE SERVICES AND IS CURRENTLY CERTIFIED BY THE DEPARTMENT. NO SPONSORSHIP OR EMPLOYMENT SHALL BE REQUIRED FOR TRAINING OR HOLDING CERTIFICATION AS AN EMT-P. ~~CANDIDATES FOR EMT-P TRAINING MUST BE SPONSORED BY, EMPLOYED BY, OR SHOW DOCUMENTATION OF FUNCTIONING WITHIN A STATE-APPROVED EMS-VEHICLE-AGENCY PROVIDING ADVANCED LIFE-SUPPORT-SERVICES.~~ (Section 4.13 of the Act).

"EMS System Coordinator(s)" means the designated individual(s) responsible to the Project Medical Director and Project Director for coordination of the educational and functional aspects of the System program.

"EMS System Program Plan" means the document prepared by the Resource Hospital and approved by the Department which describes the EMS System program and directs the program's operation (see Subpart D of this Part).

"FCC" means the Federal Communications Commission.

"Fixed-wing aircraft" means an engine-driven aircraft that is heavier than air, and is supported in-flight by the dynamic reaction of the air against its wings.

"HEALTH SYSTEMS AGENCY" MEANS A HEALTH SYSTEMS AGENCY AS DEFINED IN 42 USC 300 L-1 (a). (Section 4.14 of the Act).

"Helicopter" or "Rotorcraft" means an aircraft that is capable of vertical take-offs and landings, including maintaining a hover.

"HOSPITAL" HAS THE MEANING ASCRIBED TO IT IN THE HOSPITAL LICENSING ACT (Ill. Rev. Stat. 1989, ch. 111 1/2, par 142 et seq.). (Section 4.04 of the Act).

"Instrument Flight Rules" or "IFR" means the operation of an aircraft in weather minimums below the minimums for flight under visual flight rules (VFR) (See General Operating and Flight Rules, 14 CFR 91.115 through 91.129).

"Instrument Meteorological Conditions (IMC)" means meteorological conditions expressed in terms of visibility, distance from clouds and

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ceiling which requires Instrument Flight Rules.

"INTERMEDIATE LIFE SUPPORT CARE" or "ILS" MEANS AN INTERMEDIATE LEVEL OF PRE-HOSPITAL AND INTER-HOSPITAL EMERGENCY CARE THAT INCLUDES BLS CARE, PLUS INTRAVENOUS CANNULATION AND FLUID THERAPY, INVASIVE AIRWAY MANAGEMENT, TRAUMA CARE, AND OTHER AUTHORIZED TECHNIQUES AND PROCEDURES INITIATED FOR THE TREATMENT OF REAL OR POTENTIAL ACUTE LIFE-THREATENING CONDITIONS, UNDER THE DIRECTION OF A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN ALL OF ITS BRANCHES OR A REGISTERED PROFESSIONAL NURSE/MTCN OR REGISTERED PROFESSIONAL NURSE/FIELD RN, AND WHERE AUTHORIZED BY THE PROJECT MEDICAL DIRECTOR IN A DEPARTMENT APPROVED EMS SYSTEM. (Section 4.19 of the Act).

"INTERMEDIATE LIFE SUPPORT SERVICES" MEANS A HOSPITAL PROVIDING, WITH THE APPROVAL OF THE DEPARTMENT (See Subpart D of this Part), PRE-HOSPITAL AND INTER-HOSPITAL EMERGENCY MEDICAL CARE THROUGH THE USE OF INTERMEDIATE LIFE SUPPORT MOBILE INTENSIVE CARE PERSONNEL, EQUIPMENT AND VEHICLES, UNDER THE DIRECTION OF A PROJECT MEDICAL DIRECTOR. (Section 4.20 of the Act).

"Mobile Radio" means a two-way radio installed in an EMS vehicle which may not be readily removed.

"Off-Road Specialized Emergency Medical Services Vehicle" or "Off-Road SENS" or "Off-Road EMS Vehicle" means a motorized cart, golf cart, ATV (all-terrain-vehicle), or amphibious vehicle which is not intended for use on public roads.

"Participating Hospital" means a hospital participating in an approved EMS System in accordance with the EMS System Program Plan, which may or may not have monitoring capabilities and which receives patients transported by System EMS vehicles under the direction of the Project Medical Director or PMD designee. This hospital agrees to replace medical supplies and provide for equipment exchange for participating EMS vehicles.

"Physician" means any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 (Ill. Rev. Stat. 1989, ch. 111, pars. 4400-1 et seq.).

"Pilot" or "EMS Pilot" means a pilot certified by the Federal Aviation Administration who has been approved by a SENS Medical Director to fly a helicopter or fixed-wing aircraft used in a Department-certified SENS Program (See Section 535.931 of this Part).

"Portable Radio" means a hand-held radio which accompanies the user during the conduct of emergency medical services.

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"PRE-HOSPITAL CARE" MEANS THOSE EMERGENCY MEDICAL SERVICES RENDERED TO EMERGENCY PATIENTS FOR ANALYTIC, RESUSCITATIVE, STABILIZING, OR PREVENTIVE PURPOSES, PRECEDENT TO AND DURING TRANSPORTATION OF SUCH PATIENTS TO HOSPITALS. (Section 4.16 of the Act).

"Pre-Hospital Care Provider or System Participant" means an EMT-A, I, P, Ambulance, Ambulance Provider, EMS Vehicle, Associate Hospital, Participating Hospital, EMS System Coordinator, Associate Hospital, EMS Coordinator, Associate Hospital EMS Medical Director, Field RN, MICN or Physician serving on an ambulance or giving voice orders over an EMS System and is subject to suspension by the Project Medical Director of that System in accordance with the policies of the EMS System Program Plan approved by the Department.

"Project Director" means the administrator, appointed by the Resource Hospital with the approval of the Project Medical Director, responsible for the administration of the EMS System.

"Project Medical Director" or "PMD" means the physician appointed by the Resource Hospital who has the responsibility and authority for total management of the EMS System. (See Sections 535.210(h) and 535.230(a) of this Part).

"Registered Nurse" or "Registered Professional Nurse" or "RN" means a person who is licensed as a professional nurse under The Illinois Nursing Act of 1987 (Ill. Rev. Stat. 1989⁷ ch. 111, pars. 3501 et seq.).

"REGISTERED PROFESSIONAL NURSE/FIELD RN" MEANS A REGISTERED NURSE, LICENSED UNDER "THE ILLINOIS NURSING ACT OF 1987", AS AMENDED, (Ill. Rev. Stat. 1989⁷, ch. 111, pars. 3501 et seq.), WHO HAS BEEN APPROVED BY THE PROJECT MEDICAL DIRECTOR IN A DEPARTMENT-APPROVED EMS SYSTEM, AND WHO HAS SATISFACTORILY COMPLETED ADDITIONAL SUPPLEMENTARY TRAINING INCLUDING BUT NOT LIMITED TO COURSES IN EXTRICATION, TELEMETRY AND COMMUNICATIONS, ADVANCED CARDIAC LIFE SUPPORT, INCLUDING DEFIBRILLATION AND INTUBATION OR ITS EQUIVALENT, AND EITHER TRAUMA NURSE SPECIALIST OR NURSE TRAUMA LIFE SUPPORT OR THEIR EQUIVALENTS AS APPROVED BY THE PROJECT MEDICAL DIRECTOR (Section 4.21 of the Act).

"REGISTERED PROFESSIONAL NURSE/MICN" OR "Mobile Intensive Care Nurse" MEANS A REGISTERED NURSE, LICENSED UNDER "THE ILLINOIS NURSING ACT OF 1987," AS AMENDED, (Ill. Rev. Stat. 1989⁷, ch. 111, pars. 3501 et seq.), WHO HAS SATISFACTORILY COMPLETED THE MOBILE INTENSIVE CARE NURSE COURSE, INCLUDING TRAINING IN TELEMETRY AND COMMUNICATION, ADVANCE CARDIAC LIFE SUPPORT, AND A PRE-HOSPITAL TRAUMA SUPPORT COURSE OR ITS EQUIVALENT, AS APPROVED BY THE DEPARTMENT. (Section 4.21(a) of the Act).

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"Resource Hospital" means the hospital with the authority and the responsibility for an EMS System as outlined in the Department-approved EMS System Program Plan (See Subpart D of this Part). The Resource Hospital, through the Project Medical Director, assumes responsibility for the entire program including the clinical aspects, operations and educational programs. This hospital agrees to replace medical supplies and provide for equipment exchange for participating EMS vehicles.

"SEMSV Medical Control Point" or "Medical Control Point" means the communication center from which the SEMSV Medical Director or his or her designee issues medical instructions or advice to the aeromedical, watercraft, or off-road SEMSV crew members.

"SEMSV Medical Director" or "Medical Director" means the physician appointed by the SEMSV Program who has the responsibility and authority for total management of the SEMSV Program, subject to the requirements of the EMS System of which the SEMSV Program is a part (See Section 535.920(e) of this Part).

"SEMSV Program" or "Specialized Emergency Medical Services Vehicle Program" means a program operating within an EMS System, pursuant to a program plan submitted to and certified by the Department, utilizing specialized emergency medical services vehicles to provide emergency transportation to sick or injured persons.

"SPECIALIZED EMERGENCY MEDICAL SERVICES VEHICLE" OR "SEMSV" MEANS A VEHICLE OR CONVEYANCE, OTHER THAN THOSE OWNED OR OPERATED BY THE FEDERAL GOVERNMENT, THAT IS PRIMARILY INTENDED FOR USE IN TRANSPORTING THE SICK OR INJURED BY MEANS OF AIR, WATER, OR GROUND TRANSPORTATION, THAT IS NOT AN AMBULANCE AS DEFINED IN THE ACT. THE TERM INCLUDES WATERCRAFT, AIRCRAFT AND SPECIAL PURPOSE GROUND TRANSPORT VEHICLES NOT INTENDED FOR USE ON PUBLIC ROADS (Section 4.30 of the Act). "Primarily intended", for the purposes of this definition, means one or more of the following:

Over fifty (50) percent (%) of the vehicle's operational (e.g. in-flight) hours are devoted to the emergency transportation of the sick or injured,

The vehicle is owned or leased by a hospital or ambulance provider and is utilized for the emergency transportation of the sick or injured,

The vehicle is advertised as a vehicle for the emergency transportation of the sick or injured,

The vehicle is owned, registered or licensed in another State

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and is utilized on a regular basis to pick up and transport the sick or injured within or from within this State, or

The vehicle's structure or permanent fixtures have been specifically designed to accommodate the emergency transportation of the sick or injured.

"STATE EMERGENCY MEDICAL SERVICES DISCIPLINARY REVIEW BOARD" MEANS A FIVE-MEMBER BOARD APPOINTED BY THE GOVERNOR TO REVIEW AND AFFIRM, REVERSE OR MODIFY THE DECISION OF A LOCAL SYSTEM REVIEW BOARD TO AFFIRM OR REVERSE A PROJECT MEDICAL DIRECTOR'S ORDER TO SUSPEND AN INDIVIDUAL OR INDIVIDUAL PROVIDER FROM PARTICIPATION WITHIN AN EMS SYSTEM (Section 10.2 of the Act) (See Sections 535.265 and 535.270 of this Part).

"System Participation Suspension" means the suspension from participation within an EMS system of an individual or individual provider, as specifically ordered by that System's Project Medical Director.

"System Review Board" or "Board" means a panel of individuals assembled within an EMS System for the purpose of reviewing a decision by the Project Medical Director to suspend from participation an individual or individual provider participating within that System. The Board shall consist of four (4) voting members and a chairperson who shall vote only in the event of a tie. The Project Medical Director shall appoint as two (2) standing members of the Board, the System Project Director or designee and an emergency room physician from within the System who is not the Project Medical Director. The remaining two (2) voting members and chairperson shall be selected by the suspended participant from a list provided by the Project Medical Director. That list shall consist of the names of six (6) providers from within the System who are in the same provider category and level as the suspended participant. If the suspended participant is a provider in a category or level which consists of less than six (6) providers, the suspended participant may choose the two (2) voting members and chairperson from any of the System's provider lists.

"Telecommunications Equipment" means a radio capable of transmitting and/or receiving voice and electrocardiogram (EKG) signals.

"Telemetry" means the transmission of data by wire, radio, or other means from remote sources to a receiving station for recording and analysis.

"Unit Identifier" is a number assigned by the Department for each EMS vehicle in the State to be used in radio communications.

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"Watercraft" means a nautical vessel, boat, aircraft, hovercraft or other vehicle that operates in, on or across water.

"911" means an emergency answer and response system in which the caller need only dial 9-1-1 on a telephone to obtain emergency services including police, fire, medical ambulance and rescue.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.20 Incorporated Materials

The following regulations, standards and statutes are incorporated or referenced in this Part.

a) Federal guidelines, statutes and regulations:

- 1) U.S. Code 42, The Public Health and Welfare, 42 USC 300 L-1(a). (See Section 535.100).
- 2) Federal Specification for Ambulance, KKK-A-18220B (1985). (See Section 535.150).
- 3) Emergency Medical Technician - Ambulance: National Standard Curriculum (1984). (See Sections 535.300(c) and (h); 535.310(a); 535.335(b); 535.400(c) and (h); 535.410(a); 535.420(a) and (b); 535.500(c) and (e); 535.510(a) and (d) and 535.530(d).)
- 4) United States Department of Transportation, Emergency Medical Technician - Intermediate: National Standard Curriculum (1985). (See Sections 535.400 (c) and (d) (4); 535.410 (a); 535.420 (a) and (b); 535.430(b); 535.432(b).)
- 5) United States Department of Transportation, Emergency Medical Technician - Paramedic: National Standard Curriculum (1985). (See Sections 535.500 (c) and (e); 535.510 (a) and (d); 535.530 (c); 535.532(b); 535.810(b) and (c); 535.850(a) and (b)).
- 6) 47 CFR 90 (1988) (Section 535.60(a))
- 7) Air Taxi Operations and Commercial Operators (14 CFR 135, 1988, Subparts A, Sections 135.1 through 135.43, B, Sections 135.61 through 135.125, C, Sections 135.141 through 135.185, D, Sections 135.201 through 135.229, E, Sections 135.241 through 135.247, F, Sections 135.261, J, Sections 135.411 through 135.443.)

b) State of Illinois Statutes:

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- 1) "AN ACT requiring hospitals to render hospital emergency services in case of injury or acute medical condition and implement emergency hospital, medical and surgical services on a community or areawide basis" (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 86 et seq.). (See Section 535.10).
- 2) Hospital Licensing Act, (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 142 et seq.). (See Section 535.10).
- 3) Medical Practice Act of 1987, (Ill. Rev. Stat. 1987, ch. 111, par. 4400-1 et seq.). (See Section 535.10).
- 4) The Illinois Nursing Act of 1987 (Ill. Rev. Stat. 1987, ch. 111, par. 3501 et seq.). (See Section 535.10).
- 5) Code of Civil Procedure (Ill. Rev. Stat. 1987, ch. 110, par. 8-2101 et seq.). (See Section 535.700(g)).
- c) State of Illinois Regulations
 - 1) Rules of Practice and Procedure for Administrative Hearings (77 Ill. Adm. Code 100). (See Sections 535.140(d) and 535.250(g)).
 - 2) Hospital Licensing Requirements (77 Ill. Adm. Code 250). (See Sections 535.10, 535.200(d) and 535.210(e)).
- d) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

SUBPART C: LICENSURE OF AMBULANCES SERVICE PROVIDERS

Section 535.100 Licensure of Ambulances Service Providers - General

- a) No person, either as owner, agent, or otherwise shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in the provision of an ambulance vehicle in the state without a current ambulance service provider license issued pursuant to Subpart C of this Part by the Department, provided that the ambulance is not owned, operated, licensed or regulated by a unit of local government.
- b) An Application for license shall be filed with the Department on a form prescribed, prepared and furnished by the Department. The application shall contain such information as, but not limited to, applicant name and address, and identification as to make, model,

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- year, and vehicle identification number, contact person, and state vehicle license number, for each vehicle to be covered by the license.
- c) Each license shall be for a period of one year and shall expire one year from the date of issuance.
- d) The Department shall issue an annual license upon the receipt of a signed application, if requirements of the Act and this Part are met, as determined by the results of an inspection conducted by the Department pursuant to this Subpart 6 of this Part.
- e) Each license shall be issued to the person named in the application for the vehicles identified in the application. The license shall not be assigned to any other person. ~~Now transferred to another vehicle without an inspection of the vehicle pursuant to Subpart 6 of this Part.~~ The Department shall also issue a separate license certificate for each vehicle, which shall be posted in the vehicle at all times. Additional vehicles may be included within the license only after inspection by the Department pursuant to this Subpart. The licensee shall notify the Department, in writing, within ten (10) days if a vehicle covered by the license is permanently removed from service. Such notice shall include returning the license certificate for that vehicle.
- f) The Department shall have the right to make inspections as are necessary in order to determine the status of compliance with the provisions of the Act and this Part.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.110 Denial, Nonrenewal, Suspension and Revocation of Ambulance Service Provider License ~~Denial of License~~

- a) The Director, after providing notice and an opportunity for an administrative hearing to the applicant or licensee, shall deny, suspend, revoke or refuse to renew an ambulance service provider license in any case in which it is found that the applicant, licensee or vehicles fail to comply with the requirements of the Act or this Part.
- b) If the failure to comply relates only to one or more specific vehicles operated by the applicant or licensee, and the applicant or licensee has one or more vehicles which are in compliance, the Director's action shall be limited to those vehicles which fail to comply with the Act or this Part.
- c) If the failure to comply concerns all of the provider's vehicles or

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d) the provider's operation as a whole, the Director's action shall cover the entire ambulance service provider license.

e) If the Director finds that the failure to comply can be corrected or remedied within an identified period of time determined necessary to correct the failure prior to the expiration of the license, the Director shall suspend, rather than revoke, the license or portion thereof. If the failure cannot be corrected or remedied within an identified period of time prior to the expiration of the license, or if the provider has a documented history of non-compliance then the Director shall revoke the license or portion thereof.

f) In the event that an immediate and serious danger to the public's health, safety or welfare exists, the Director shall order an emergency suspension of an ambulance service provider's license or portion thereof. Subsequent to the emergency suspension order, the Director shall promptly initiate proceedings to revoke or suspend the license or portion thereof and provide the licensee with an opportunity for an administrative hearing. The emergency suspension shall remain in effect throughout the course of such proceedings, unless the Director lifts the suspension order after determining that the emergency situation has been corrected or remedied. In determining whether to lift the suspension the Director will consider whether or not patient care is compromised.

g) All administrative hearings conducted pursuant to this Section shall be governed by the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

h) ~~An application for a license may be denied for any of the following reasons:~~

- a) ~~Failure to meet any of the requirements of the Act and this Part;~~
- b) ~~Lack of qualified personnel to staff vehicle;~~

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.120 Renewal of License

An application for renewal of license shall be filed with the Department on a form prescribed, prepared and furnished by the Department at least sixty (60) days prior, but not sooner than ninety (90) days before the expiration date of the currently held license.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.150 Ambulance Licensing Requirements

- a) Vehicle Design

- 1) Each vehicle used as an ambulance after the effective date of this Part shall comply with the criteria established by the U.S. General Services Administration's ~~United States Department of Transportation's~~ Specification for Ambulance (KKK-A-1822CB), with the exception of the following sections: 1.2.1 Ambulance Type - "Star of Life"; 3.8.2 Ambulance Emergency Lighting; 3.16.2 Color, paint, and finish; 3.16.4 Emblems and Markings; and 3.22 as determined by the Department by an inspection.
- 2) Each vehicle that does not meet the U.S. General Services Administration's ~~United States Department of Transportation's~~ Ambulance Design Standards (KKK-A-1822CB) as determined by the Department by an inspection, but is operational on the effective date of this Part shall be considered to be in compliance with this Part until there is a transfer of ownership.

b) Equipment Requirements - Basic Life Support Vehicles

Each ambulance used as a Basic Life Support vehicle shall meet the following equipment requirements, as determined by the Department by an inspection:

- 1) Stretchers, Cots & Litters
 - A) Primary Patient Litter
 - i) Wheeled
 - ii) At least 70" long and 20" wide
 - iii) Allows for the head to be tilted upward to a 60° semi-sitting position
 - iv) Provided with 3 point fasteners to sidewall and/or floor
 - v) Designed to insure the frame or handle to permit up to four persons to carry the litter
 - B) Secondary Patient Litter
 - i) Shall be folding and/or collapsible type
- 2) Oxygen
 - A) Installed
 - i) Is supplied by at least 3000 liters of oxygen and tank

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is secured in at least 3 positions so as to provide maximum safety for patients and personnel. (M cylinder)

- ii) Is equipped with a reducing valve (from 2000 PSI cylinder to 50 PSI) with pressure gauge
- iii) Is equipped with yoke
- iv) Has a pressure gauge flow meter that will deliver up to 15 liters per minute
- v) Has humidifier with sterile water and unbreakable clear containers
- vi) Has delivery tubes
- vii) Has oxygen outlet accessible to the technician at the head of the primary litter
- viii) Has one each adult, child and infant sized oxygen masks that are semi-open, valveless, transparent and disposable
- ix) Has 3 each nasal cannulas

B) Portable

- i) Is of at least 300 litre capacity (D or E cylinder)
- ii) Is equipped with yoke
- iii) Has pressure gauge flow meter (not gravity-dependent) that will deliver up to 1540 litres per minute
- iv) Has delivery tube
- v) Has one each adult, child and infant sized oxygen masks that are semi-open, valveless, transparent and disposable
- vi) Has an additional full 300 litre capacity cylinder carried on the vehicle (D or E cylinder)

3) Suction

A) Installed

- i) Is powerful enough to provide an airflow of over 20

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liter/minute at the end of the delivery tube and a vacuum of over 300 mm Hg (11.811 inches) when the tube is clamped

- ii) Has vacuum adjustable for use with children and intubated patients
- iii) Has suction yoke, unbreakable collection bottle, water for rinsing, and suction tube accessible to the technician at the head of the primary litter
- iv) Has tube of sufficient length to reach the head of the primary and secondary litters
- v) Is fitted with large-bore, non-kinking, translucent suction tubing
- vi) Has 3 each sterile, single-use suction catheters with on/off control in small, medium and large sizes
- vii) Has 3 each tonsil tip suction handles or catheters, single-use
- viii) Can be disassembled for ease of cleaning and decontamination

B) Portable

- i) Is powerful enough to provide an airflow of at least 12 litres per minute at the end of the suction tube, and a vacuum of at least 300 mm Hg (11.811 inches) to be reached within 12 seconds after tube is clamped
- ii) Has 3 each tonsil tip suction handles or catheters, single-use
- iii) Is fitted with large-bore, non-kinking, translucent suction tubing with sufficient length so that unit does not have to be placed on top of patient
- iv) Has an unbreakable collection bottle capable of holding at least 500 ml
- v) Has 3 each sterile, single-use suction catheters with on/off control in small, medium and large sizes
- vi) Operates from an integral battery supply which is rechargeable and will allow the unit to meet the air

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flow and suction requirements of this section for at least 15 minutes. Portable suction devices which require an operator to squeeze a bulb, pump a pedal, turn a crank, etc., are not acceptable

4) Medical Equipment

- A) Squeeze bag-valve-mask ventilation unit with transparent mask in sizes for adult, child/infant
- B) Lower-extremity traction splint, adult size
- C) Blood pressure cuff, 1 each, adult and pediatric, and gauge
- D) 2 each stethoscopes
- E) Pneumatic counter pressure trouser kit, adult size
- F) Long spine board with 2 each torso straps, 9 feet in length, wrist restraint(s), 1 each chin and head strap
- G) Short spine board with 2 each torso straps, 9 feet in length, wrist restraint(s), 1 each chin and head strap or vest type (wrap around) extrication device kit
- H) Airway kits-select one (1)
 - i) Oropharyngeal-adult, child and infant sizes
 - ii) Mouth-to-mouth artificial ventilation - adult, child and infant sizes, commonly referred to as "S" tubes or resusci-tubes
- I) Bandage shears, 1 each
- J) Padded board splints, 2 each 15"x3" (or equivalent)
- K) Padded board splint, 1 each 4'6"x3" (or equivalent)
- L) Rigid cervical collars - 1 each, small, medium and large sizes. Shall be made of rigid material to minimize flexation, extension and lateral rotation of the head and cervical spine when spine injury is suspected
- M) Sand bags - 4 each, about 4 inches in width, 2 inches in thickness and 12 inches in length or lateral C-Spine and head immobilization device(s)

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- N) Patient restraints, arm and leg, sets
- O) Hypothermic thermometer or electronic thermometer capable of aiding in the diagnosis of hypothermia - 1 each
- 5) Medical Supplies
 - A) Trauma dressing - 6 each
 - B) Sterile gauze pads - 20 each, 4 inches by 4 inches
 - C) Bandages, soft roller, self adhering-type, 10 each, 6 inches by 5 yards
 - D) Vaseline gauze - 2 each, 3 inches by 8 inches
 - E) Adhesive tape rolls - 2 each
 - F) Triangular bandages or slings - 5 each
 - G) Burn sheets - 2 each, sterile
 - H) Sterile solution (normal saline) - 4 each, 500 cc or 2 each, 1,000 cc plastic bags
 - I) Aluminum foil roll or Silver Swaddler - 1 each
 - J) Bite sticks - 2 each
 - K) Obstetrical kit, sterile - 1 each, pre-packaged with instruments
 - L) Syrup of Ipecac, 1 each
 - M) Cold packs, 3 each
 - N) Emesis basin - 1 each
 - O) Drinking water - 1 quart, in non-breakable container, Sterile water may be substituted
 - P) Disposable drinking cups - 5 each
 - Q) Ambulance emergency run reports - 10 each, with space for the following minimum information:
 - i) Signatures of EMTs present on the ambulance run and their Illinois certification numbers or identifier numbers

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- ii) Time left garage
- iii) Time on scene/time left scene
- iv) Time arrived at receiving facility
- v) Six-digit ambulance license number (Secretary of State issued)
- vi) Blood pressure, pulse, skin condition and respiration of the patient upon arrival at the scene
- vii) Level of consciousness
- viii) Chief complaint of the patient
- ix) Treatment rendered by the EMTs present
- R) Pillows - 2 each, for ambulance cot
- S) Pillowcases - 2 each, for ambulance cot
- T) Sheets - 2 each, for ambulance cot
- U) Blankets - 2 each, for ambulance cot
- V) CPR mask - 1 each, with safety valve to prevent backflow of expired air and secretions
- W) Hot packs - 3 each
- X) Urinal - 1 each
- Y) Bedpan - 1 each
- Z) Remains bag - 1 each
- AA) Non-porous disposable gloves
- BB) Isolation bag
- CC) Face protection
- c) Equipment Requirements - Intermediate and Advanced Life Support Vehicles
Each ambulance used as an Intermediate Life Support vehicle or as an Advanced Life Support vehicle shall meet the requirements in

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- subsection 535.150 (b) and shall also comply with the equipment and supply requirements as determined by the Project Medical Director in the System in which the ambulance and its crew participate.
- d) Equipment Requirements - Rescue and/or Extrication
Each ambulance shall document the mechanism and agency that provides rescue services, and carry the following:
 - 1) Wrench, 12" with adjustable open end
 - 2) Screwdriver, 12" with regular blade
 - 3) Screwdriver, 12" Phillips type
 - 4) One of these:
 - A) Hammer, 3-pound, with 15" handle
 - B) Fire axe, flat head
 - C) Wrecking bar, 24"
 - 5) Goggles for eye safety
 - 6) Fire extinguisher - 2 each, ABC dry chemical, minimum 5 pound unit with quick release brackets. One mounted in driver compartment and one in patient compartment
 - 7) Flashlight - 1 each, battery powered 6 volt, stand-up lantern type
- e) Equipment Requirements - Communications Capability
Each ambulance must have ambulance to hospital radio communications capability and meet the requirements provided in Section 535.50 of this Part.
- f) Personnel Requirements
 - 1) Each ambulance shall be staffed by two EMTs, Field RNs or physicians on all emergency calls.
 - 2) Each ambulance used as an Intermediate Life Support vehicle shall be staffed by a minimum of one EMT-I, Field RN or physician and one other EMT, Field RN or physician. Each ILS vehicle using defibrillation shall be staffed by a minimum of

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years for those ambulance agencies that claim financial hardship.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

SUBPART D: EMERGENCY MEDICAL SERVICES PROGRAM - GENERAL

Section 535.200 Emergency Medical Services System Program - General

a) The provisions of this Subpart shall apply to all hospitals, ambulance providers and personnel participating in the delivery of Advanced Life Support/Mobile Intensive Care and/or Intermediate Life Support/Mobile Intensive Care to the sick and injured at the scene of an emergency, during transport to a hospital or during inter-hospital transport, and within a hospital emergency department until the responsibility for the care of the patient is assumed by the medical personnel at the receiving hospital.

b) The emergency care described in Subsection 535.200(a) shall only be offered or rendered through an approved Emergency Medical Services (EMS) System. An EMS System shall not become operational nor shall any training of System personnel begin until a letter of approval has been issued by the Department.

c) An applicant for EMS System approval shall submit to the Department three copies of a written System Program Plan signed by the Medical Director which includes all of the information and documentation required by Section 535.210 of this Subpart.

d) An approved System which desires to modify its System Program Plan shall submit to the Department a written amendment signed by the Project Medical Director, along with a written statement of approval from its AHES Committee. A System shall not implement a modification to its approved Program Plan until a letter of approval has been issued by the Department.

e) After receiving a Program Plan for a proposed EMS System or an amendment to an approved System Program Plan, the Department shall notify the applicant or System within thirty (30) days if its Program Plan or amendment is incomplete. Such notice shall include a description of the information or documentation needed to complete the Program Plan or amendment.

f) After receiving a complete Program Plan for a proposed EMS System or amendment to an approved System Program Plan, the Department shall issue a letter of approval or disapproval within 120 days. A letter of disapproval shall include the reasons for disapproval. The Department shall approve EMS Systems which meet the requirements of this Part and the Act.

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one EMT-I approved by the Project Medical Director for defibrillation, a Field RN or physician and one other EMT, Field RN or physician. Each ambulance used as an Advanced Life Support vehicle shall be staffed by a minimum of one EMT-I, Field RN or physician and one other EMT, Field RN or physician.

3) Each ambulance provider that operates an emergency transport vehicle shall ensure through written agreement with the EMS System that the agency providing emergency care at the scene and en route to a hospital meets the requirements of this Subpart.

g) Operational Requirements

1) Any operation of an ambulance while transporting a patient to a hospital shall be done in accordance with the requirements of the Act and this Part.

2) A Each licensee shall ~~agree to~~ operate its the ambulance in compliance with this Part, twenty-four hours a day, every day of the year.

3) For each patient transported to a hospital, the ambulance staff shall, at a minimum, measure and record the patient's blood pressure, pulse, respiration, skin condition, level of consciousness, chief complaint and any treatment rendered.

4) A The licensee shall ~~agree to~~ provide emergency service within the service area on a per need basis without regard to the patient's ability to pay for such service.

5) A The licensee shall provide documentation of its back-up procedures to be followed when a call for service is received and a vehicle is not available, including copies of mutual aid agreements with other ambulance providers. ~~mutual aid agreements with other services in adjoining communities and other services within the service area for alternate methods of providing services.~~

h) AGENCY NOTE: Any provider may request a waiver of any requirements in this Section under the provisions of Section 535.750. Examples of situations in which waivers of the requirement that ambulances carry pneumatic counter pressure trouser kits will be granted are as follows: When the Department is notified that a hospital or Project Medical Director will not order the use of a pneumatic counter pressure trouser kit or M.A.S.T. trousers by emergency medical personnel on a Basic Life Support Vehicle; and that a waiver is necessary to allow adequate time or progressive procurement of the pneumatic counter pressure trouser kits over a period of one to three

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- g) The Department shall not review requests for equipment or training grants until a letter of approval has been issued by the Department.
- h) The Department shall inspect, pursuant to a complaint filed with the Department or as it deems necessary to verify compliance with the Act and this Part, any equipment, records or vehicles used or maintained by a proposed or approved EMS System or by any provider participating in a proposed or approved EMS System. Routine inspections shall be conducted no more often than every three years.
- i) Letters of commitment required in Section 535.210 shall be updated at least every three years.
- j) A hospital is not required to join an AHES committee. However, if it has elected to do so, the hospital shall comply with its commitments as outlined in the plan administered by the AHES committee and shall be subject to the provisions of subsection (d) and Sections 535.210(e) and 535.220 of this Part.
- k) For the purposes of this Part, changes in any of the following shall be considered modifications of a System Program Plan:

- 1) Resource Hospital, Associate Hospital or Participating Hospital,
- 2) Project Medical Director,
- 3) AHES participation,
- 4) System service area (See Section 535.210 (f) of this Part),
- 5) Written standing orders (See Section 535.210 (m) (1) of this Part),
- 6) Methods(s) of providing EMS services (See Section 535.210 (i) of this Part),
- 7) Specific role(s) of Associates or Participating Hospital(s),
- 8) Role(s) of specific ambulance providers (See Section 535.210 (k)(2) of this Part),
- 9) Response areas of specific ambulance providers (See Section 535.210 (k)(3) of this Part),
- 10) Access and dispatch procedures and mechanism (See Section 535.210 (k)(14) of this Part),
- 11) Communications plan (See Sections 535.60 (a)(1) through (14),

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- (h) and (i), 535.210 (m)(4)(B) and (C) of this Part),
- 12) Equipment and drug requirements (See Section 535.210 (m)(2) of this Part),
- 13) System training, continuing education and examination requirements,
- 14) Quality Assurance policies (See Section 535.210 (m)(5) of this Part),
- 15) Data collection and evaluation policies (See Section 535.210 (m)(6) of this Part),
- 16) Override policies (See Section 535.210 (m)(7)(B) of this Part),
- 17) Disciplinary/suspension policies or procedures (See Section 535.210 (m)(9) of this Part).

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.210 EMS System Program Plan

An Emergency Medical Services (EMS) System Program Plan shall contain the following information:

- a) The name and address of the Resource Hospital;
- b) The names and resumes of the following persons:
 - 1) The Project Medical Director,
 - 2) The Project Director,
 - 3) The EMS System Coordinator.
- c) The names and addresses of each Associate or Participating Hospital;
- d) The names and addresses of each ambulance provider participating within the EMS System;
- e) A letter from the appropriate AHES committee which contains the following:
 - 1) A statement that the Resource Hospital meets the requirements of a basic or comprehensive emergency facility (See "Basic" and "Comprehensive" emergency services as defined in Section 250.710 of the Hospital Licensing Requirements (77 Ill. Adm. Code 250));

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76) Notify the Department of any changes in personnel providing pre-hospital care in accordance with the EMS System Program Plan approved by the Department;

87) Be responsible for the total management of the System, including the enforcement of compliance with the System Program Plan by all participants within the System; ~~and~~ i

98) Ensure that a copy of the application for renewal (a form supplied by the Department) is provided to every EMT-I or EMT-P within the System who has NOT been recommended for recertification by the Project Medical Director; i and

109) Be responsible for compliance with the provisions of Sections 535.260 and 535.265 of this Part.

i) A description of the method(s) of providing EMS services which includes the protocols for:

- 1) single vehicle response and transport;
- 2) dual vehicle response;
- 3) level of first response vehicle;
- 4) level of transport vehicle; ~~s--and~~
- 5) use of mutual aid agreements; and *
- 6) informing the caller requesting an emergency vehicle of the estimated time of arrival when the vehicle response is estimated to be longer than six minutes.

j) A letter of commitment from each Associate or Participating Hospital within the System which includes the following:

- 1) Signed statements by the hospital's Chief Executive Officer, Chief of the Medical Staff and Director of the Nursing Service describing their commitments to the standards and procedures of the System;
- 2) A description of how the hospital will relate to the EMS System Resource Hospital, its involvement in the ongoing planning and development of the program, and its utilization of the education and continuing education aspects of the program;
- 3) A commitment to meet the System's educational standards for MICNs and Field RNs;

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2) A brief description of the AHES area including categorization scheme, a specialty availability and critical care referral patterns, and

3) A statement that the proposed EMS System Program Plan has been reviewed and approved.

f) A map of the EMS System's service area indicating the locations of all hospitals and ambulance providers participating in the System;

g) Letters of commitment from the following persons at the Resource Hospital, which describe the commitment of the writer and his or her office to the development and ongoing operation of the EMS System, and which state the writer's understanding of and commitment to any necessary changes such as emergency department staffing and educational requirements:

- 1) The Chief Executive Officer of the hospital;
- 2) The Chief of the Medical Staff, and
- 3) The Director of the Nursing Services.

h) A letter of commitment from the Project Medical Director which describes the PMD's agreement to:

- 1) Be responsible for the ongoing education of all System personnel including coordinating didactic and clinical experience;
- 2) Develop written standing orders (treatment protocols, standard operating procedures) to be used in the PMD's absence and certify that all involved personnel will be knowledgeable in emergency care and capable of providing treatment and using communications equipment once the program is operational;
- 3) Provide the name and resume of the Alternate Project Medical Director;
- 4) Be responsible for supervising all personnel participating within the System, as described in the System Program Plan;
- 5) Develop or approve one or more ambulance emergency run reports (run sheets) covering all types of ambulance runs performed by System ambulance providers;
- 65) Ensure that the Department has access to all records, equipment and vehicles under the authority of the PMD, during any Department inspection, investigation or site survey;

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- 4) An agreement to provide exchange of all drugs and equipment with all pre-hospital providers participating in the System;
 - 5) An agreement to utilize the standard treatment orders as established by the Resource Hospital;
 - 6) An agreement to follow the operational policies and protocols of the System;
 - 7) An agreement to participate in the training and continuing education of pre-hospital personnel;
 - 8) An agreement to collect and provide relevant data as determined by the Resource Hospital;
 - 9) A description of the hospital's data collection and reporting methods and the personnel responsible for maintaining all data;
 - 10) The names and resumes of the Associate Hospital EMS Medical Director and Associate Hospital EMS Coordinator;
 - 11) An agreement to allow the Department access to all records, equipment and vehicles relating to the System during any Department inspection, investigation or site survey, and
 - 12) If the hospital is a participant in another System, a description of how it will interact within both Systems and how it will ensure that communications interference as a result of this dual participation will be minimized.
- k) A letter of commitment from each ambulance provider participating within the System which includes the following:
- 1) For each EMS vehicle participating within the System:
 - A) The year, model, make, and vehicle identification number;
 - B) The license plate number;
 - C) The Department license number, unless exempt from Department licensure (See Section 9 of the Act);
 - D) The base location address, and
 - E) The level of service (advanced, intermediate or basic).
 - 2) A description of its role in providing advanced life support, intermediate life support, basic life support and patient transport services with the System;
 - 3) Definitions of the primary, secondary and outlying areas of response for each EMS vehicle used within the System;

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- 4) A map or maps indicating the base locations of each EMS vehicle, the primary, secondary and outlying areas of response for each EMS vehicle, the population base of each service area and the square mileage of each service area;
- 5) A commitment to optimum responses times of 4-6 minutes in primary coverage areas, 10-15 minutes in secondary coverage areas, and 15-20 minutes in outlying coverage areas;
- 6) A commitment to twenty-four (24) hour coverage;
- 7) A commitment that within one (1) year after Department approval of the EMS System, each ambulance at the scene of an emergency and during transport of emergency patients to and between hospitals will be staffed in accordance with the requirements of Section 535.150 (f)(1) and (2);
- 8) Copies of written mutual aid agreements with other providers and/or a description of the provider's own back-up system, which detail how adequate coverage will be ensured when an EMS vehicle is responding to a call and a simultaneous call is received for service within that vehicle's coverage area;
- 9) A statement that emergency services which an EMS vehicle is authorized to provide shall not be denied on the basis of the patient's inability to pay for such services;
- 10) An agreement to file an appropriate EMS run sheet or form for each emergency call, as required by the System;
- 11) An agreement to maintain the equipment required by Section 535.150 and by the System, in working order at all times, and to carry the medication as required by the System;
- 12) An agreement to notify the Project Medical Director of any changes in personnel providing pre-hospital care in the System in accordance with the policies in the System Manual;
- 13) A copy of its current FCC license(s);
- 14) A description of the mechanism and specific procedures used to access and dispatch the EMS vehicles within their respective service areas;
- 15) A list of all personnel providing pre-hospital care, their certification numbers, expiration dates and levels of certification (EMT-A, EMT-I, EMT-P), their Field RN or MD status;

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- 16) An agreement to allow the Department access to all records, equipment and vehicles relating to the System during any Department inspection, investigation or site survey;
- 17) An agreement to allow the Project Medical Director or designee access to all records, equipment and vehicles relating to the System during any inspection or investigation by the PMD or designee to determine compliance with the System Program Plan;
- 18) Documentation that its communications capabilities meet the requirements of Section 535.50 of this Part;
- 19) Documentation that each EMS vehicle participating in the System complies with the vehicle design, equipment and extrication criteria as provided in Section 535.150(a)(1) and (b) of this Part, and
- 20) An agreement to follow the approved EMS policies and protocols of the System.

- 1) Descriptions and documentation of each communications requirement provided in Section 535.60 of this Part;
- m) A System Manual, the format of which shall be System specific as to organization, which shall contain but not be limited to items (1) through (11) in the following subparagraphs; and which except for training program examinations and quizzes, student and instructor evaluations, and any examinations used to test or monitor System participants' proficiency, shall be available to all System participants. The entire Manual shall be available to any agency authorized to evaluate, survey or accredit the program.
- 1) The Project Medical Director's written standing orders (treatment protocols, Standard Operating Procedures) to be used in the PMD's absence, including the circumstances under which the MICN will call the PMD or a designated physician to the operational control point, and what the nurse's limitations are;
- 2) A list of all equipment and drugs required for EMS vehicles;
- 3) The System's program and requirements for the training and continuing education of EMTs, Field RNs and MICNs including but not limited to:
 - A) Curriculum (EMT training programs shall be taught in accordance with the United States Department of Transportation (DOT) Emergency Medical Technician National Standard Curriculum, 1984);

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- B) Teaching schedules;
 - C) Training program examinations, including the formats to be used (i.e., essay, multiple-choice, classroom or take-home quizzes, practical examinations);
 - D) Clinical experiences;
 - E) Training program entrance and successful completion requirements;
 - F) Training program student and instructor evaluations;
 - G) Clinical and didactic recertification requirements, including a requirement that each EMT's continuing education records shall be kept on file at the Resource Hospital, and that copies shall be provided to the EMTs, and
 - H) System examinations, if any, used to test and monitor an EMT's continued proficiency to render the level of care for which the EMT is certified.
- 4) Communications standards and protocols including:
 - A) The information contained in the System Program Plan relating to the requirements of Sections 535.60(a)(1), (2), (3) and (4), 535.60(b) and 535.60(g);
 - B) Protocols ensuring that physician direction and voice orders to EMS vehicle personnel and other hospitals participating in the System are provided from the operational control point of the Resource or Associate Hospital, and
 - C) Protocols ensuring that voice orders via radio and using telemetry shall be given by or under the direction of the Project Medical Director or the PMD's designee, who shall be either an MICN, a Field RN or a physician.
 - 5) Quality assurance measures for patient care, ambulance operation and System training activities, including but not limited to monitoring training activities to ensure that the instruction and materials are consistent with United States Department of Transportation training standards for EMTs and Section 4 and 13 of the Act, unannounced inspections of pre-hospital services, and internal provider self-assessments.
 - 6) Data collection and evaluation methods which include:

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- A) The mechanism for collecting data from hospitals and pre-hospital providers;
 - B) A copy of the pre-hospital reporting form;
 - C) The method employed to evaluate data and to notify and correct patient care or reporting discrepancies;
 - D) A sample of the information and data to be reported to the Department summarizing System activity, and
 - E) The System's procedure for ensuring the confidentiality of patient names and patient identifying information;
- 7) Operational policies which delineate the respective roles and responsibilities of all providers in the System regarding the provision of emergency services, including:
- A) Abuse of controlled substances by System personnel;
 - B) Resource Hospital overrides (situations in which Associate Hospital orders are overruled by the Resource Hospital);
 - C) Infectious disease and disinfection procedures, and
 - D) Reporting and documentation of problems.
- 8) Medical-Legal policies addressing:
- A) A patient's right of refusal;
 - B) Transport to closest hospital/bypass;
 - C) Patient hospital preference;
 - D) Minor patient/guardian consent;
 - E) Patient abandonment;
 - F) Coroner policy;
 - G) Emotionally disturbed patients;
 - H) Do not resuscitate situations;
 - I) Patient confidentiality/release of information;
 - J) Interaction with law enforcement/evidence;g-and

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- K) Reporting of suspected crimes (i.e., child abuse); and
 - L) Physician on the scene.
- 9) Any procedures regarding disciplinary/suspension decisions and the review of those decisions which the System has elected to follow in addition to those required by the Act,
- 10) The responsibilities of the EMS Coordinator(s), as designated by the Project Medical Director, including data evaluation, supervision of clinical, didactic and field experience training, and physician and nurse education as required, and
- 11) The responsibilities of the Project Director.
- n) If the Resource Hospital for a proposed EMS System is currently participating in an existing System, the following additional information must be provided:
- 1) A clear description of its current role and status within the existing System;
 - 2) Its rationale for separating from the existing System and developing its own program;
 - 3) A description of the methods to be used for ensuring the coordination of emergency services with adjacent Systems, including the System which it proposes to leave;
 - 4) A statement detailing the effect which the proposed change will have on the area's pre-hospital services and patient referral patterns;
 - 5) A statement summarizing the steps to be taken to ensure that the necessary quality and level of care will be maintained during the implementation phase of the proposed System;
 - 6) A statement detailing the effect which the proposed System will have on the current radio communications systems utilized in the area;
 - 7) A detailed description of its communications system design, including the expected delivery dates for equipment which has been purchased, leased or ordered, and
 - 8) If the proposed System intends to use, borrow or lease any communications equipment or facilities from an existing System, a copy of a specific contract or agreement authorizing such

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arrangement shall be attached.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.265 System Review Board

- a) Any EMS System participant suspended from participation by the Project Medical Director pursuant to Section 535.260(a) of this Part may request a hearing before that System's Review Board ("Board") within fifteen (15) days after the date of suspension. Such request shall be made in writing via certified mail to the Project Medical Director. The Project Medical Director shall notify the two (2) standing members of the Board that a hearing has been requested. The suspended participant shall be responsible for consulting the posted lists of providers which are described in Sections 535.10 and 535.260(c) of this Part. The suspended participant shall select from the appropriate list(s) the names of two (2) voting members and a chairperson. The Project Medical Director shall provide additional names, as needed, if the suspended participant is unable to satisfactorily select three (3) names from the initial list of six (6).
- b) The Project Medical Director shall schedule the Board to meet within three (3) business days after the suspended participant has selected the three (3) remaining members of the Board. The Board shall review and consider any testimony and documentation related to the issue at hand which is offered by either party to the suspension issue. Both the suspended participant and the System may be represented by legal counsel. A copy of the hearing transcripts shall be made available to any party so requesting at the party's expense. The Board shall state in writing its decision to affirm, modify or reverse the suspension. Such decision shall be sent via certified mail or personal service to the suspended participant and to the Project Medical Director within five (5) business days after the conclusion of the hearing. The Board's decision shall be binding upon all parties, unless reversed or modified by the State EMS Disciplinary Review Board.
- c) The Project Medical Director shall notify the Department, in writing, of a decision by the Review Board to either uphold or reverse the Project Medical Director's suspension of an individual or individual provider from participation within the System, within five (5) business days after the Board's decision. Such notice shall include a statement detailing the duration of and grounds for the suspension.
- d) A recommendation to the Illinois Department of Public Health by a Project Medical Director to deny, suspend or revoke the certification or license of a participant within an EMS System is not subject to

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the provisions of this Section, unless such recommendation forms the basis for suspension pursuant to Section 535.260(a) ~~2304e~~ of this Part.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

SUBPART E: EMERGENCY MEDICAL TECHNICIAN - AMBULANCE TRAINING (EMT-A)

Section 535.300 Emergency Medical Technician-Ambulance Training - General

- a) Applications for approval of EMT-A Training Programs shall be filed with the Department on forms prescribed, prepared and furnished by the Department. The application shall contain such information as, but not limited to, name of applicant, agency and address, type of training program, lead instructor's name and address, dates of the training program, name and signature of medical director physician and other information that will be required by the Department for the proper administration and enforcement of the Act and this Part.
- b) Applications for approval shall be submitted at least sixty (60) ~~thirty (30)~~ days in advance of the first scheduled class.
- c) The EMT-A training program shall designate a physician as Medical Director who is knowledgeable in emergency care. The Medical Director shall attest that the training program shall be conducted according to the United States Federal Department of Transportation's ~~current~~ National Standard Curriculum, and that all instructors are knowledgeable in the material and capable of instructing at the EMT-A level.
- d) The EMT-A training program shall designate a Lead Instructor who shall be responsible for the overall management of the training program.
- e) The Lead Instructor shall be an EMT-A, EMT-I, EMT-P, or an Illinois Registered Nurse, or a physician licensed to practice medicine in all of its branches in Illinois.
- f) The Lead Instructor shall have three (3) years of experience in emergency care as a provider and two (2) years of teaching experience in a classroom setting.
- g) The Lead Instructor shall be recommended by the Medical Director and approved by the Department based on the requirements of ~~pursuant to~~ Section 535.300 (e) and (f).
- h) Any changes in the EMT-A training program's Medical Director or Lead

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Instructor shall require the application process outlined in Section 535.300 (a).

The Lesson Plans of the training program shall be those published by the Federal Department of Transportation National Standard Curriculum. Any expansion of the course objectives shall be approved on an individual basis by the Department to ensure that the expansion does not impact on a higher level of certification care.

i) Questions for all quizzes and tests to be given during the EMT-A training program will be prepared by the Department and provided to the Lead Instructor upon request, or the Lead Instructor may choose to prepare his/her own quizzes and tests.

j) Each approved training program shall submit a student roster within ten (10) days after the first class as well as a student roster indicating successful or unsuccessful completion within ten (10) days after the last class.

k) All approved programs shall maintain class and student records for seven (7) years and these shall be made available to the Department upon request.

l) Training programs conducted on a regular basis with a stable instructional staff may be approved on an annual basis by the Department provided that there are no changes in the Medical Director or Lead Instructor positions. Changes in either of these positions shall require the submission of an amended application to the Department. Annual approval will be based upon community need for the training and provided that the training site has consistently maintained a quality program of instruction.

m) Questions for all quizzes and tests to be given during the EMT-A training program will be prepared by the Department and made available to the Lead Instructor.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.310 EMT-A Testing

a) After completion of an approved training program, EMT-A candidates shall take a written examination. The candidate shall have the choice of taking either the National Registry of Emergency Medical Technicians Testing Procedures examination or the Department's examination. The Department's examination is based on the United States Department of Transportation National Standard Curriculum and is equivalent to the National Registry Examination.

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b) The Department or designee shall administer the National Registry examination or the State written examination for certification of EMT-As EMT-A's at least once each quarter and at a location in each administrative region in the State. Candidates who elect to take the National Registry of Emergency Medical Technicians testing procedures in lieu of the State examination shall be responsible for making their own arrangements with the Registry.

c) All EMT-A candidates shall hold a high school diploma or high school equivalency certificate and be eighteen (18) years of age or older in order to be tested for certification.

d) A failure rate per class of 25% or greater on the certification examination shall require that the particular EMT-A training program be reevaluated by the Department at least sixty (60) days before the start of the next class.

e) Failure to achieve a passing grade on three successive examinations within 12 months of the completion of the Training Program shall require the candidate to retake the EMT-A training program.

f) When a candidate elects to take the State examination or the National Registry's examination, the candidate must successfully complete that particular testing procedure. A candidate will not be allowed to take the alternate examination after failure to achieve a passing grade.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.320 EMT-A Certification

a) In order to be certified by the Department as an EMT-A an individual must pass the National Registry of Emergency Medical Technicians Examination or the Department's EMT-A examination.

~~1) Be eighteen (18) years of age or older.~~

~~2) Have completed a Department approved training program and successfully completed the required testing procedures.~~

b) The Department will certify those individuals who meet the requirements of this Section for a period of two (2) years these ~~individuals who meet the requirements of Section 535.320(a).~~

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.330 EMT-A Recertification

a) In order to be recertified as an EMT-A,

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programs shall be approved by the Department before being offered to EMT-A's. An application for approval shall be submitted to the Department on a form prescribed, prepared and furnished by the Department, at least sixty (60) days prior to the scheduled event.

b) Approval will be granted provided the application is complete and the content of the program is based on topics or materials from the United States Department of Transportation National Standard Curriculum for EMT-A's. Upon approval, the Department will issue a site code to the class, seminar, workshop or program.

c) An EMT-A shall be responsible for submitting written proof of continuing education attendance to the EMS System Coordinator or the Department Regional EMS Coordinator.

d) The EMS System Coordinator or Department Regional EMS Coordinator shall be solely responsible for verifying whether specific continuing education hours have been earned by the EMT-A.

e) An EMT-A shall be responsible for maintaining copies of all documentation concerning continuing education programs that he or she has completed.

(Source: Added at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.350 Penalty (Repealed)

~~Any individual who actively functions as an EMT-A without a current certificate is subject to the provisions of the penalty clause contained in Ill. Rev. Stat. 1985, ch. 111, § 2, par. 5520.~~

(Source: Repealed at 14 Ill. Reg. 15390, effective September 1, 1990)

SUBPART F: EMERGENCY MEDICAL TECHNICIAN - INTERMEDIATE TRAINING (EMT-I)

Section 535.400 Emergency Medical Technician - Intermediate Training - General

a) An EMT-I training program shall only be conducted by an EMS System.

ba) Applications for approval of EMT-I Training Programs shall be filed with the Department on forms prescribed, prepared and furnished by the Department. The application shall contain such information as, but not limited to, name of applicant, agency and address, type of training program, lead instructor's name and address, dates of training program, name and signature of the Project Medical Director and EMS System Coordinator. ~~Physician and other information that will~~

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1) The holder of a certificate as an EMT-A must file with the Department an application for renewal on a form prepared by the Department at least thirty (30) days prior to the two (2) year certification expiration date.

2) Written documentation must be provided to the Department by the Project Medical Director or the Regional EMS Coordinator regarding completion of the following requirements:

A) Successfully completing a ~~minimum of~~ twenty (20) hours attendance at refresher training programs.

B) A current CPR certificate, which covers:

i) Adult one-rescuer CPR

ii) Adult foreign body airway obstruction management

iii) Pediatric one-rescuer CPR

iv) Pediatric foreign body airway obstruction management

v) Adult two-rescuer CPR

vi) Pediatric two-rescuer CPR

C) Forty (40) ~~eight (8)~~ hours of continuing education, seminars and workshops. No more than twenty-five percent (25%) of those hours may be in the same subject.

b) Composition of refresher training and ~~continuing education~~ programs and qualifications of instructors shall be approved by the Department not less than sixty (60) days prior to the scheduled event. Program approval will be granted provided the program is conducted in accordance with guidelines of the Federal Department of Transportation's current national curriculum and based upon the program content relevancy for EMT-A's. Qualifications of instructors shall be consistent with Section 535.300 (e) and (f).

c) The certification of an EMT-A who has failed to file an application for renewal, or whose application for renewal has been denied by the Department, shall terminate on the day following the expiration date shown on the certificate.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.335 EMT-A Continuing Education

a) Continuing education classes, seminars, workshops or other types of

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be required by the Department for the proper administration and enforcement of the Act and this Part.

- (cb) Applications for approval shall be submitted at least sixty (60) days in advance of the first scheduled class.
- (de) The Project Medical Director of the EMS System shall attest on the Department's application form that the training program shall be conducted according to the United States Federal Department of Transportation's current National Standard Curriculum. Minimum sections shall include #1 through #8. EMS Systems intending to train and approve EMT-I's to defibrillate shall include Section #9. Department approval shall be obtained prior to implementing a system program for training EMT-I's in defibrillation and approving such EMT-I's to defibrillate. Approval shall be based on conformance with Section #9 of the United States Department of Transportation National Standard Curriculum. EMT-I training programs in operation on the effective date of this Part shall provide a written statement to the Department signed by the Project Medical Director and the EMS System Coordinator that the program is conducted in accordance with the National Curriculum and shall thereby be exempt from submitting an application for approval.
- (ed) The EMT-I training program shall be under the direction of the Project Medical Director and the EMS System Coordinator.
- (fe) The EMS system shall designate a Lead Instructor, who shall be approved by the Department based on the requirements of Section 535.400 (g).
- The Project Medical Director shall recommend to the Department, a lead instructor based on Section 535.400 (f).
- (gf) The Lead Instructor shall be an EMT-I, an EMT-P, a Registered Nurse or a physician and shall have three (3) years of experience in emergency care as a provider and two (2) years of teaching experience in a classroom setting.
- (h) Any changes in the EMT-I training program's Project Medical Director, EMS System Coordinator and/or Lead Instructor shall require the application process as outlined in Section 535.400 (b).
- (ig) A candidate for an EMT-I training program must have the following qualifications:
- 1) Current Illinois certification as an EMT-A.
 - 2) Pre-employment sponsorship by, employment by, or documentation

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of functioning within a State approved EMS vehicle agency providing intermediate life support services.

- (h) The Lesson Plans of the training program shall be those published by the United States Department of Transportation, National Standard Curriculum. Minimum sections shall include #1 through #8. EMS Systems intending to train and approve EMT-I's to defibrillate shall include Section #9. Department approval shall be obtained prior to implementing a system program for training EMT-I's in defibrillation and approving such EMT-I's to defibrillate. Approval shall be based on conformance with Section #9 of the United States Department of Transportation National Standard Curriculum.
- (j) Before a candidate is accepted into the program, documentation must be submitted that an EMS System vehicle will be available to accommodate field experience and internship needs.
- (k) Each approved training program shall submit a student roster within ten (10) days after the first class as well as a student roster indicating successful or unsuccessful completion within ten (10) days after the last class.
- (l) After an EMT-I candidate has completed and passed all components of the training program, the PWD shall submit to the Department a transaction card (Form No. DPH-DP.01.1-85) concerning that individual.
- (m) All approved programs shall maintain class and student records for seven (7) years and these shall be made available to the Department upon request.
- (n) Training programs conducted on a regular basis with a stable instructional staff may be approved on an annual basis by the Department provided that there are no changes in the Project Medical Director or EMS System Coordinator positions. Changes in either of these positions shall require the submission of an amended application to the Department.
- (Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)
- Section 535.410 EMT-I Testing
- a) After completion of an approved training program, EMT-I candidates shall take a written examination. The candidate shall have the choice of taking either the National Registry of Emergency Medical Technicians Testing Procedures examination or the Department's examination. The Department's examination is based on the United States Department of Transportation National Standard Curriculum and

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(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.420 EMT-I Certification

a) In order to be certified by the Department as an EMT-I, an individual must:

- 1) Pass either the National Registry of Emergency Medical Technicians examination or the Department's EMT-I examination. ~~Be eighteen (18) years-of-age-or-older.~~
- 2) Complete a field internship on a State-approved EMS System vehicle, supervised by an EMT-I or EMT-P with one year of experience, a Registered Professional Nurse designated by the Project Medical Director, or a physician with critical care knowledge and experience on an EMS vehicle.

A) The length and structure of the field internship shall be determined by the PMD for the System in which the internship is performed, based upon the types and frequencies of emergency calls encountered by EMT-Is within that System, but shall include a minimum of five (5) Intermediate Life Support runs.

B) The field internship shall be completed within six (6) months after passing the EMT-I examination. If an extension of time is needed due to hardship, a waiver shall be sought pursuant to Section 535.750 of this Part, prior to the end of the six-month period.

C) An EMT-I candidate who completes the internship after the six-month period, pursuant to waiver, shall be given a practical examination by the PMD. Such examination shall cover patient assessment and appliance application at the EMT-I level.

D) The PMD shall notify the Department, in writing, when an EMT-I candidate has completed the field internship and passed a practical examination, if applicable.

~~Have-completed-a-Department-approved-training-program-and successfully-passed-the-required-testing-procedures-of-the resource-hospital-and-the-Department.~~

3) ~~Be-currently-certified-as-an-EMT-A.~~

4) ~~Have-received-a-letter-of-recommendation-from-the-Project Medical-Director-stating-that-all-the-requirements-of~~

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is equivalent to the National Registry Examination.

b) The Department or designee shall administer the State written examination for certification of EMT-Is on a semi-annual schedule. Candidates who elect to take the National Registry of Emergency Medical Technicians examination Testing-Procedures in lieu of the State examination shall be responsible for making their own arrangements with the National Registry.

e) ~~All-EMT-I-candidates-shall-meet-the-following-requirements-in-order to-be-tested-for-certification:~~

1) ~~Be-eighteen-(18)-years-of-age-or-older.~~

2) ~~Be-currently-certified-as-an-EMT-A.~~

3) ~~Be-recommended-by-the-Project-Medical-Director---The recommendation-shall-include-written-documentation-(either letter-or-numeric)-that-all-the-requirements-for-training-and testing-contained-in-the-training-program-application-have-been met---The-recommendation-and-documentation-shall-be-forwarded by-certified-mail-to-the-Department-fifteen-(15)-days-prior-to the-test-date.~~

c) A failure rate per class of 25% or greater on the certification examination shall require that the particular EMT-I training program be reevaluated by the Department at least sixty (60) days before the start of the next class.

d) Failure to achieve a passing grade on three successive examinations within 12 months of the completion of the Training Program shall require the candidate to retake the EMT-I training program.

e) When a candidate elects to take the State examination or the National Registry's examination, the candidate must successfully complete that particular testing procedure. A candidate will not be allowed to take the alternate examination after failure to achieve a passing grade.

f) EMS Systems intending to authorize defibrillation by EMT-Is who have completed the training described in Section 535.400(h) of this Part shall require the EMT-I to pass both a written and a practical examination prior to receiving such authorization. The examinations shall be developed and evaluated by the Project Medical Director or designee. The Project Medical Director shall approve an EMT-I for defibrillation if such examinations reflect that the EMT-I possesses the required knowledge and skills to safely and effectively defibrillate.

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subsection a) have been compiled with:

- 35) Be employed by, or functioning within a State approved EMS vehicle agency (e.g. volunteer fire departments) providing intermediate life support services, as verified by that System's PMD.

6) ~~Within six (6) months of successful completion of the State certification exam, must have completed the necessary field experience required by the EMS training program as approved by the Project Medical Director in accordance with the National Standard Curriculum on an approved EMS vehicle supervised by a certified EMT-I or EMT-P with one year's experience; a registered professional nurse designated by the Project Medical Director; or a physician with critical care knowledge and experience on an EMS vehicle.~~

- b) The Department will certify those individuals who meet the requirements of this Section for a period of two (2) years.

c) ~~EMT-I certification is acceptable as EMT-A certification. More than one level of EMT certification will not be permitted.~~

- cd) Only EMT-Is who have successfully completed a Department approved training program and have been approved by the EMS System Project Medical Director will be allowed to defibrillate. (See Section 535.400)

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.430 EMT-I Recertification

- a) In order to be recertified as an EMT-I,

- 1) The holder of a certificate as an EMT-I must file with the Department an application for renewal on a form prepared by the Department at least thirty (30) days prior to the two (2) year certification expiration date.

A) The submission of a transaction card (Form No. IDPH-DP .01 1-85) by the Project Medical Director will satisfy the renewal application requirement for a certificate holder who has been recommended for recertification by the Project Medical Director.

- B) A certificate holder who has not been recommended for recertification by the Project Medical Director must independently submit to the Department an application for

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renewal. The Project Medical Director shall provide the certificate holder with a copy of the appropriate form to be completed.

- 2) A written recommendation signed by the Project Medical Director must be provided to the Department regarding completion of the following requirements:

A) ~~Successfully completing a minimum of twenty (20) hours attendance at refresher training programs.~~

B) A current CPR certificate, which covers:

i) Adult one-rescuer CPR

ii) Adult foreign body airway obstruction management

iii) Pediatric one-rescuer CPR

iv) Pediatric foreign body airway obstruction management

v) Adult two-rescuer CPR

vi) Pediatric two-rescuer CPR.

C) Forty-eight (48) hours of continuing education, seminars and workshops, twelve (12) hours of which were directed at the intermediate skills, plus any System continuing education requirements for EMT-Is approved to defibrillate.

D) Employment by or functioning with a State approved EMS vehicle agency providing intermediate life support services.

b) Composition of refresher training programs and qualifications of instructors and continuing education programs shall be submitted to the Department for approval not less than sixty (60) days prior to the scheduled event. Program approval will be granted provided the program is conducted in accordance with guidelines of the Federal Department of Transportation's current national curriculum and contains material relevant to EMT-I's. Qualifications of instructors shall be consistent with Section 535.400(f).

c) Upon denial of recommendation for recertification, the Project Medical Director shall submit all reasons for denial. This denial shall be in writing and sent to the EMT-I and the Department.

de) The certification of an EMT-I who has failed to file an application for renewal, or whose application for renewal has been denied by the

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Department, shall terminate on the day following the expiration date shown on the certificate.

- ed) At any time prior to the expiration of the current certificate, the EMT-I may revert to the EMT-A status for the remainder of the certification period. The EMT-I must make this request in writing to the Department. To recertify at the EMT-A level, the individual must meet the requirements for recertification found in Section 535.330.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.432 EMT-I Continuing Education

- a) Didactic continuing education classes, seminars or other types of programs shall be approved by the Department before being offered to EMT-Is. An application for approval shall be submitted to the Department by a Project Medical Director, on a form prescribed, prepared and furnished by the Department, at least sixty (60) days prior to the scheduled event.

- b) Approval will be granted provided the application is complete and the content of the program is based on topics or materials from the United States Department of Transportation National Standard Curriculum for Intermediates. Upon approval, the Department will issue a site code to the class, seminar or program.

- c) An EMS System may apply to the Department for a single System Site Code to cover didactic continuing education activities conducted by the System solely for System EMT-Is (e.g., telemetry review at the Resource Hospital, morbidity and mortality conferences, preceptor orientation, review of System education materials). Activities conducted under the System Site Code shall not require individual approval by the Department.

- d) The PMD of the EMS System in which the EMT-I functions shall be responsible for determining whether a particular State-approved didactic continuing education program is acceptable for credit within the System.

- e) An EMT-I shall be responsible for submitting written proof of didactic continuing education attendance to the EMS System Coordinator, in the manner prescribed by the System Program Plan.

- f) The EMS System Coordinator or Project Medical Director of the EMS System in which an EMT-I primarily functions shall be solely responsible for verifying whether specific continuing education hours have been earned by the EMT-I.

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- g) An EMS System which requires clinical continuing education shall specify in the System Program Plan the number of hours required, and the manner in which those hours must be earned, submitted and verified.

- h) An EMT-I shall be responsible for maintaining copies of all documentation concerning continuing education programs or activities that he or she has completed.

(Source: Added at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.440 EMT-I Inactive Status

- a) Prior to the end of the two year certification status, an EMT-I may request to be placed on inactive status. The request shall be made in writing to the Project Medical Director. The Project Medical Director will apply to the Department in writing and request that the EMT-I be placed on inactive status. This application shall contain the following information:

- 1) Name of individual.
- 2) Date of certifications.
- 3) EMT identification number.
- 4) Circumstances requiring inactive status.
- 5) Length of time of inactive status.
- 6) A statement that recertification requirements have been met by the date of the application for inactive status ~~to-date~~.

- b) The Department will review requests for inactive status. The Department shall notify the Project Medical Director in writing of its decision based on Section 535.440(a).

- c) In order for the EMT-I to return to active status, the Project Medical Director must make application to the Department. The application must be in writing and include a statement that the EMT has been examined (physically and mentally) and found capable of functioning within the EMS System and that the EMT-I's knowledge and clinical skills are at an active EMT-I level.

- d) ~~Failure to request reinstatement to certified status within the required time frame will cause the certification to expire~~

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

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Section 535.450 Penalty (Repealed)

as outlined in subsection 535.500 (ba).

Any individual who actively functions as an EMT-I without a current certification is subject to the provisions of the penalty clause contained in Ill. Rev. Stat., 1985 Ch. 111-1/2, par. 5520.

(Source: Repealed at 14 Ill. Reg. 15390, effective September 1, 1990)

SUBPART G: EMERGENCY MEDICAL TECHNICIAN - PARAMEDIC TRAINING (EMT-P)

Section 535.500 Emergency Medical Technician - Paramedic Training - General

- a) An EMT-P training program shall only be conducted by an EMS System.
- ba) Applications for approval of EMT-P training programs shall be filed with the Department on forms prescribed, prepared and furnished by the Department. The application shall contain such information as, but not limited to, name of applicant, agency and address, type of training program, Project Medical Director's and EMS System Coordinator's name, dates of training program, signature of Project Medical Director and EMS System Coordinator and other information that will be required by the Department for the proper administration and enforcement of the Act and this Part.

- cb) Applications for approval shall be submitted at least sixty (60) thirty (30) days in advance of the first scheduled class.

- de) The Project Medical Director of the EMS System shall attest that the training program shall be conducted according to the United States Federal Department of Transportation's current National Standard Curriculum. The EMT-P training program shall include all components of the National Standard Curriculum. EMT-P training programs in operation on the effective date of this Part shall provide a written statement to the Department signed by the Project Medical Director and the EMS System Coordinator that the program is conducted in accordance with the National Standard Curriculum and shall thereby be exempt from submitting an application for approval.

- ed) The EMT-P training program's lead coordinators shall be the Project Medical Director and the EMS System Coordinator.

- e) The lesson plans of the training program shall be those published by the Federal Department of Transportation National Standard Curriculum. Any expansion of the course objectives shall be approved on an individual basis by the Department.

- f) Any change in the EMT-P training program's Project Medical Director and/or EMS System Coordinator shall require the application process

- g) A candidate for an EMT-P training program must have a current Illinois certification as an EMT-A or EMT-I. the following qualifications:

- 1) Current Illinois certification as an EMT-A or an EMT-I;
- 2) Pre-employment sponsorship by, employment by, or documentation of functioning with a State approved EMS vehicle agency providing advanced life support services.

- h) Each approved training program shall submit a student roster within ten (10) days after the first class. as well as a student roster indicating successful or unsuccessful completion within ten (10) days after the last class.

- i) After an EMT-P candidate has completed and passed all components of the training program, the PMD shall submit to the Department a transaction card (Form No. MPH-DP-01, 1-85) concerning that individual.

- ji) All approved programs shall maintain class and student records for seven (7) years and these shall be made available to the Department upon request.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.510 EMT-P Testing

- a) After completion of an approved training program, EMT-P candidates shall take a written examination. The candidate shall have the choice of taking either the National Registry of Emergency Medical Technicians Testing Procedures examination or the Department's examination. The Department's examination is based on the United States Department of Transportation National Standard Curriculum and is equivalent to the National Registry Examination.
- b) The Department or designee shall administer the State written examination for certification of EMT-Ps on a semi-annual schedule. Candidates who elect to take the National Registry of Emergency Medical Technicians examination Testing Procedures in lieu of the State examination shall be responsible for making their own arrangements with the National Registry.
- e) All EMT-P candidates shall meet the following requirements in order to be tested for certification:

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- 1) By-eighteen-(18)-years-of-age-or-older.
- 2) Be-currently-certified-EMT-A's, EMT-I's-or-a-Registered-Professional-Nurse-who-meets-the-criteria-as-designated-in-Section-535.520.
- 3) Be-recommended-by-their-Project-Medical-Director--The-recommendations-shall-include-written-documentation-(either-letter-or-approval)-that-all-the-requirements-for-training-and-testing-contained-in-the-training-program-application-have-been-met--The-recommendation-and-documentation-shall-be-forwarded-by-certified-mail-to-the-Department-fifteen-(15)-days-prior-to-the-test-date.
- 4) All-testing-for-EMT-D's-shall-be-based-upon-the-current-Federal-Department-of-Transportation's-National-Standard-Curriculum-and-shall-include-baste-life-support-as-detailed-in-the-National-Standard-Curriculum-for-EMT-A's-as-outlined-in-Section-535.300-of-this-Part.
- 5) Failure to achieve a passing grade on three successive examinations within 12 months of the completion of the Training Program shall require the candidate to retake the EMT-P training program.
- 6) When a candidate elects to take the State examination or the National Registry's examination, the candidate must successfully complete that particular testing procedure. A candidate will not be allowed to take the alternate examination after failure to achieve a passing grade.
- 7) A failure rate per class of twenty-five (25%) percent or greater shall require that the particular EMT-P training program be reevaluated by the Department at least sixty (60) days prior to the start of the next class.
- (Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)
- Section 535.520 EMT-P Certification
- a) In order to be certified by the Department as an EMT-P an individual must:
- 1) Pass either the National Registry of Emergency Medical Technicians examination or the Department's EMT-P examination, and Be-eighteen-(18)-years-of-age-or-older.
 - 2) Complete a field internship on a State-approved EMS System vehicle, supervised by an EMT-P with one year of experience, a

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Registered Professional Nurse designated by the Project Medical Director, or a physician with critical care knowledge and experience on an EMS vehicle.

- A) The length and structure of the field internship shall be determined by the PMD for the System in which the Internship is performed, based on the types and frequencies of emergency calls encountered by EMT-Ps within that System, but shall include a minimum of ten (10) Advanced Life Support runs.
- B) The field internship shall be completed within twelve (12) months after passing the EMT-P examination. If an extension of time is needed due to hardship, a waiver shall be sought pursuant to Section 535.750 of this Part, prior to the end of the twelve-month period.
- C) An EMT-P candidate who completes the internship after the twelve-month period, pursuant to waiver, shall be given a practical examination by the PMD. Such examination shall cover patient assessment and appliance application at the EMT-P level.
- D) The PMD shall notify the Department, in writing, when an EMT-P candidate has completed the field internship and passed a practical examination, if applicable.
- Have-completed-a-Department-approved-training-program-and-successfully-completed-the-required-testing-procedures-of-the-resource-hospital-and-the-Department.
- 3) Be-currently-certified-as-an-EMT-A-or-EMT-I-with-documented-field-experience-on-an-EMS-vehicle-a-recommendation-from-the-Project-Medical-Director-that-he/she-is-well-versed-in-arrhythmia-(dysrhythmia)-identification-and-capable-of-producing-treatment-knownledgeable-in-the-use-of-all-Mobile-Intensive-Care-equipment.
- 4) Within-one-year-of-successful-completion-of-the-State-Certification-exam-must-have-completed-the-necessary-field-experience-required-by-the-program-as-approved-by-the-Department-on-a-State-approved-EMS-System-vehicle-supervised-by-a-certified-EMT-P-with-one-year-of-experience-a-Registered-Professional-Nurse-designated-by-the-Project-Medical-Director-or-a-physician-with-critical-care-knowledge-and-experience-on-an-EMS-vehicle.
- 5) Have-received-a-letter-of-recommendation-from-the-Project-

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Medical Director,Adult foreign body airway obstruction management

- 36) Be functioning employed by, or function within, a State-approved EMS-System vehicle-agency, providing advanced life support services, as verified by that System's Project Medical Director.

Pediatric one-rescuer CPRPediatric foreign body airway obstruction managementAdult two-rescuer CPR

- b) The Department will certify those individuals who meet the requirements of this Section Rule for a period of two (2) years.

- c) EMT-P certification is acceptable as EMT-I or EMT-A certification; More than one level of EMT certification will not be permitted.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.530 EMT-P Recertification

- a) In order to be recertified as an EMT-P,

- 1) The holder of a certificate as an EMT-P must file with the Department an application for renewal on a form prepared by the Department at least thirty (30) days prior to the two (2) year certification expiration date.

- A) The submission of a transaction card (Form No. IDPH-DP .01 1-85) by the Project Medical Director will satisfy the renewal application requirement for a certificate holder who has been recommended for recertification by the Project Medical Director.

- B) A certificate holder who has not been recommended for recertification by the Project Medical Director must independently submit to the Department an application for renewal. The Project Medical Director shall provide the certificate holder with a copy of the appropriate form to be completed.

- 2) A written recommendation signed by the Project Medical Director must be provided to the Department regarding completion of the following requirements:

- A) A minimum of forty (40) hours of continuing education in each of the last two (2) years, earned in accordance with the System's policies.

- B) A current CPR certificate which covers:

- i) Adult one-rescuer CPR

- C) Employment by or functioning with a State approved EMS vehicle agency providing advanced life support services.

- b) Upon denial of recommendation for recertification, the Project Medical Director must submit all reasons for denial. This denial shall be in writing and sent to the EMT-P and the Department.

- c) Composition of continuing education programs shall be submitted to the Department for approval not less than sixty (60) days prior to the scheduled event. Program approval will be granted provided the program is conducted in accordance with guidelines of the Federal Department of Transportation's current national curriculum and contains material relevant to EMT-P's.

- cd) The certification of an EMT-P who has failed to file an application for renewal, or whose application for renewal has been denied by the Department, shall terminate on the day following the expiration date shown on the certificate.

- de) At any time prior to the expiration date of the current certificate, the EMT-P may revert to either the EMT-I or EMT-A status for the remainder of the certification period. The EMT-P must make this request in writing to the Department and the case of reduction to the EMT-I level, the request must include a letter of recommendation from the Project Medical Director. To recertify at the EMT-A level, the individual must meet the requirements for recertification found in Section 535.330. To recertify at the EMT-I level, the individual must meet the requirements for recertification found in Section 535.430.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.532 EMT-P Continuing Education

- a) Didactic continuing education classes, seminars or other types of programs shall be approved by the Department before being offered to EMT-Ps. An application for approval shall be submitted to the Department by a Project Medical Director, on a form prescribed.

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prepared and furnished by the Department, at least sixty (60) days prior to the scheduled event.

- b) Approval will be granted provided the application is complete and the content of the program is based on topics or materials from the United States Department of Transportation National Standard Curriculum for Paramedics. Upon approval, the Department will issue a site code to the class, seminar or program.
- c) An EMS System may apply to the Department for a single System Site Code to cover didactic continuing education activities conducted by the System solely for System EMT-Ps (e.g., telemetry review at the Resource Hospital, morbidity and mortality conferences, preceptor orientation, review of System educational materials). Activities conducted under the System Site Code shall not require individual approval by the Department.

- d) The PMD of the EMS System in which the EMT-P functions shall be responsible for determining whether a particular State-approved didactic continuing education program is acceptable for credit within that System.

- e) An EMT-P shall be responsible for submitting written proof of didactic continuing education attendance to the EMS System Coordinator, in the manner prescribed by the System Program Plan.

- f) The EMS System Coordinator or Project Medical Director of the EMS System in which an EMT-P primarily functions shall be solely responsible for verifying whether specific continuing education hours have been earned by the EMT-P.

- g) An EMS System which requires clinical continuing education shall specify in the System Program Plan the number of hours required, and the manner in which those hours must be earned, submitted and verified.

- h) An EMT-P shall be responsible for maintaining copies of all documentation concerning continuing education programs or activities that he or she has completed.

(Source: Added at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.540 EMT-P Inactive Status

- a) Prior to the end of the two year certification status, an EMT-P may request to be placed on inactive status. The request shall be made in writing to the Project Medical Director. The Project Medical Director will apply to the Department in writing and request that the

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EMT-P be placed on inactive status. This application shall contain the following information:

- 1) Name of individual.
- 2) Date of certification.
- 3) EMT identification number.
- 4) Circumstances requiring inactive status.
- 5) Length of time of inactive status.
- 6) A statement that recertification requirements have been met by the date of the application for inactive status.

- b) The Department will review requests for inactive status. The Department shall notify the Project Medical Director in writing of its decision based on subsection 535.549 (a).
- c) In order for the EMT-P to return to active status, the Project Medical Director must make application to the Department. The application must be in writing and include a statement that the EMT has been examined (physically and mentally) and found capable of functioning within the EMS System, and that the EMT-P's knowledge and clinical skills are at an active EMT-P level.

- d) Following review, the Department may reinstate the individual to active status (based upon, but not limited to, the circumstances requiring the inactive status, length of time of the inactive status, etc.) and establish a new two-year certification period.
- e) Failure to request reinstatement to certified status within the required time frame will cause the certification to expire.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.550 Penalty (Repealed)

Any individual who actively functions as an EMT-P without a current certificate is subject to the provisions of the penalty clause contained in Ill. Rev. Stat., ch. 111-1/2, par. 5520.

(Source: Repealed at 14 Ill. Reg. 15390, effective September 1, 1990)

SUBPART I: SUSPENSION, REVOCATION AND DENIAL OF CERTIFICATION OF EMTs

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Section 535.650 Suspension, Revocation and Denial of Certification of EMTs
EMT-9

a) The Director, after providing notice and an opportunity for an administrative hearing to the applicant or certificate holder, shall deny, suspend or revoke a certificate or refuse to recertify any person as an EMT-A, EMT-I or EMT-P in any case in which he or she finds that there has been a substantial failure to comply with the provision of the Emergency Medical Services (EMS) Systems Act or this Part. Such findings must show one or more of the following:

- 1) THE EMT-A, EMT-I, OR EMT-P HAS NOT MET CONTINUING AND ADDITIONAL EDUCATION AND TRAINING REQUIREMENTS AS PRESCRIBED BY THE DEPARTMENT IN THIS PART;
- 2) THE EMT-A, EMT-I OR EMT-P HAS VIOLATED THIS ACT OR ANY RULE PROMULGATED UNDER THIS ACT;
- 3) THE EMT-A, EMT-I OR EMT-P HAS FAILED TO MAINTAIN PROFICIENCY IN PROVIDING BASIC OR INTERMEDIATE LIFE SUPPORT SERVICES, OR ADVANCED LIFE SUPPORT-MOBILE INTENSIVE CARE SERVICES OR REQUIRED SKILLS AS PRESCRIBED BY THE DEPARTMENT; or
- 4) THE EMT-A, EMT-I OR EMT-P, DURING THE PROVISION OF EMERGENCY SERVICES, ENGAGED IN DISHONORABLE, UNETHICAL OR UNPROFESSIONAL CONDUCT OF A CHARACTER LIKELY TO DECEIVE, DEFRAUD OR HARM THE PUBLIC (e.g., use of alcohol or illegal drugs while on duty, verbal or physical abuse of a patient, or misrepresentation of certification or licensure status). (Section 10 (b)(4) of the Act ~~111-Rev.-Stat.-1986, ch.-111-1/2, par.-5510-10-b~~).

b) "Substantial Failure", as used in this Section, means a failure other than a variance from the strict and literal requirements which results in unimportant omissions, given the particular circumstances involved.

c) "Revocation", as used in this Section, means that the Department-issued certification is terminated.

d) "Suspension", as used in this Section, means that the Department-issued certification is invalid for an identified period of time determined necessary to correct substantial failure.

e) The Director shall suspend a certificate in any case in which he or she finds that the substantial failure by the certificate holder can be corrected or remedied within an identified period of time determined necessary to correct the substantial failure prior to the expiration of the certificate. If the substantial failure cannot be

corrected or remedied within an identified period of time prior to the expiration of the certificate, then the Director shall revoke the certificate.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

SUBPART K: WAIVER PROVISIONS

Section 535.750 Waiver Provisions

a) THE DEPARTMENT MAY GRANT A WAIVER TO ANY PROVISION OF THIS PART FOR A SPECIFIED PERIOD OF TIME DETERMINED APPROPRIATE BY THE DEPARTMENT WHEN IT CAN BE DEMONSTRATED THAT THERE WILL BE NO REDUCTION IN STANDARDS OF MEDICAL CARE (Section 13.1 of the Act).

b) An application for waiver shall be submitted in writing to the Department, and shall contain the following information:

- 1) The applicant's name, address, and license or certification number (if applicable),
- 2) The Section of this Part for which the waiver is being sought,
- 3) An explanation of why the applicant considers compliance with the Section to be a hardship, including a description of how the applicant has attempted to comply with the Section,
- 4) The period of time for which the waiver is being sought,
- 5) An explanation of how the waiver will not reduce the standards of medical care established by the Act and this Part, and
- 6) If the applicant is a System Participant, the applicant's Project Medical Director shall state in writing whether the PMD recommends or opposes the application for waiver, the PMD's reasons for such recommendation or opposition, and the PMD's statement of how the waiver will or will not reduce the standards of medical care established by the Act and this Part. The applicant shall submit the PMD's statements along with the application for waiver.

c) A Project Medical Director may apply to the Department for a waiver on behalf of a System Participant, by submitting an application which contains all of the information required by subsection (b) of this Section, along with a statement signed by the System Participant requesting or authorizing the PMD to make such application.

d) The Department shall review all requests for waivers which contain

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all of the information required by subsection (b) of this Section.

e) The Department shall grant the requested waiver if it finds that:

- 1) The waiver will not reduce the standards of medical care established by the Act and this Part,
- 2) Full compliance with the regulation at issue is or would be a hardship on the applicant,
- 3) For an EMT seeking a waiver to extend a recertification date in order to complete recertification requirements,
 - A) The EMT has previously received no more than one (1) extension since his or her last recertification, and
 - B) The EMT has not established a pattern of seeking extensions (e.g. waivers sought based on the same type of hardship in two (2) or more previous certification periods).
- 4) For an applicant other than an EMT,
 - A) The applicant has previously received no more than one (1) waiver of the same regulation during the current license or designation year, and
 - B) The applicant has not established a pattern of seeking waivers of the same regulation during previous license or designation years,
 - C) Unless the Department finds that the hardship preventing compliance with the particular regulation is of an ongoing nature.

f) When granting a waiver, the Department shall specify the regulation or portion thereof which is being waived, any alternate requirement which the waiver applicant shall meet, and any procedures or timetable which the waiver applicant shall follow in order to achieve compliance with the waived regulation.

g) The Department shall determine the length of any waiver which it grants, based on the nature and extent of the hardship, and the medical needs of the community or areas in which the waiver applicant functions.

a) If unreasonable hardship to a provider of services, including but not limited to financial considerations, results from compliance with any requirement of this Part, or if no service is available to the

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area, the affected party may petition the Department for a waiver of this Part, the above factors will also be used to determine the length of the waiver.

b) The petition to the Department shall be in writing and contain the following information:

- 1) An explanation as to why the waiver is necessary;
- 2) A written description of an alternate means of handling the matter;
- 3) A projected target date for compliance with this Part;

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

SUBPART M: CERTIFICATION OF SPECIALIZED EMERGENCY MEDICAL SERVICES
VEHICLE (SEMSV) PROGRAMS

Section 535.900 Certification of SEMSV Programs - General

- a) No person, either as owner, agent, or otherwise shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in the provision of emergency medical care or transportation to a sick or injured patient using a Specialized Emergency Medical Services Vehicle (SEMSV), unless currently certified by the Department pursuant to this Subpart of this Part, or the SEMSV is owned, operated, licensed or regulated by a unit of local government.
- b) An application for certification shall be filed with the Department by submitting a Program Plan which includes the information required in this Part. The Program Plan shall be signed by the SEMSV Medical Director and the Project Medical Director of the EMS System of which the SEMSV Program is a part (See Section 535.920(a) of this Part).
- c) Each certification shall be valid for a period of one (1) year from the date of issuance, unless suspended or revoked.
- d) Each certification shall be issued to the program named in the application for the specific vehicle(s) identified in the application, and shall not be assignable or transferable.
- e) An application for renewal of certification shall be filed with the Department at least thirty (30) days prior to the expiration date, on a form prepared and furnished by the Department. The renewal application shall be accompanied by photocopies of any current licenses or certificates required of SEMSV personnel by the provisions of this Part (See Sections 535.920(e), 535.931, 535.932(a)

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of this Part), and verification that SEMSV personnel continuing education required by the provisions of this Part have been met (See Section 535.930(d) of this Part). Each renewed certificate shall be valid for a period of one (1) year from the date of issuance, unless suspended or revoked.

- f) The Department shall inspect any vehicles, equipment, records or other documents covered by the certified or applicant SEMSV program annually to determine initial or continued compliance with the requirements of the Act or this Part.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

Section 535.920 SEMSV Program Certification Requirements for All Vehicles

- a) The SEMSV program shall be part of a Department-approved EMS System.
- b) The SEMSV program shall meet and comply with all State and Federal requirements governing the specific vehicles employed in the program (See Sections 535.933, or 535.941, or 535.951 of this Part).
- c) The SEMSV program shall comply with this Part during its hours of operation. The SEMSV program shall operate twenty-four (24) hours per day, every day of the year in accordance with weather conditions, except when the service is committed to another medical emergency request, or is unavailable due to maintenance requirements.
- d) The SEMSV program shall provide pre-hospital emergency services within its service area on a per need basis without regard to the patient's ability to pay for such service. (See Section 535.150(g)(2)).

- e) The SEMSV program shall be supervised and managed by a Medical Director, who shall be a physician who has met at least the following requirements:

- 1) One or more of the following:

- A) Board certification by the American Board of Emergency Medicine,
- B) Completion of twelve (12) months of internship, followed by sixty (60) months plus seven thousand (7000) hours of hospital based Emergency Medicine (two thousand eight hundred (2800) of the seven thousand (7000) hours must be completed within one twenty-four (24) month period), and document fifty (50) hours of continuing medical education in Emergency Medicine for each complete year of practice,

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- C) Completion of residency in Emergency Medicine as defined in 77 Ill. Adm. Code 540.20, in a residency program approved by the Residency Review Committee for Emergency Medicine,
- D) Board certified or prepared in Internal Medicine,
- E) Board certified or prepared in General Surgery.
- 2) Training and experience in Advanced Cardiac Life Support (ACLS), such as the ~~American Heart Association's American Academy-of-Emergency-Physicians~~ ACLS course,
- 3) Training and experience in Advanced Trauma Life Support (ATLS), such as the American College of Surgeons' ATLS course,
- 4) In programs utilizing air vehicles, documentation, such as certificates of completion in course work designed to bring about:
- A) Experience and knowledge in inflight treatment modalities,
- B) Experience and knowledge in altitude physiology,
- C) Experience and knowledge in infection control as it relates to airborne and intra facility transportation, and
- D) Experience and knowledge in stress management techniques.
- 5) In programs utilizing watercraft, documentation, such as certificates of completion in course work designed to bring about:
- A) Experience and knowledge in drowning (cold, warm, fresh, and salt water), and
- B) Experience and knowledge in diving accident physiology and treatment.

(Source: Amended at 14 Ill. Reg. 15390, effective September 1, 1990)

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16) Information and questions regarding this adopted rule shall be directed to:

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

The full text of the Adopted Amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: Adopted Action:
130.1940 Amendment
130.1965 Amendment
130.2075 Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 120, par. 441
- 5) Effective Date of Amendment(s): September 10, 1990
- 6) Does this rulemaking contain an automatic repeal date? Yes ☐ No ☒
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: September 10, 1990
- 9) Notice of Proposal Published in Illinois Register:
May 11, 1990, 14 Ill. Reg. 7106
(issue date)
- 10) Has JCAR issued a Statement of Objections to these Rules?: No
- 11) Differences between proposal and final version: No changes.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
130.1935	Amendment	9/22/89, 13 Ill. Reg. 14800

15) Summary and Purpose of Rule(s): This rulemaking reflects that landscape contractors incur a Use Tax liability (based on cost price) rather than a Retailers' Occupation Tax liability (based on selling price) when they incorporate tangible personal property (trees and shrubs) into real estate. These amendments put landscape contractors in the same position as construction contractors who incorporate tangible personal property (building materials) into real estate.

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

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130.101	Character and Rate of Tax
130.115	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles by Leasing or Rental Business
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SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
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130.215	Further Illustrations
130.220	Sales to Lessors of Tangible Personal Property

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.335	Pollution Control Facilities
130.340	Rolling Stock
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

Section	
130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges--penalties--Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax

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130.440	Penalties
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SUBPART E: RETURNS

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130.501	Monthly Tax Returns--When Due--Contents
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration--Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period
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130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.555	Vending Machine Information Returns
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SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
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SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
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130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
130.735	Certificate Not Transferable
130.740	Certificate Required For Mobile Vending Units
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SUBPART H: BOOKS AND RECORDS

Section	
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130.805 What Records Constitute Minimum Requirement

130.810 Records Required to Support Deductions

130.815 Preservation and Retention of Records

130.820 Preservation of Books During Pendency of Assessment Proceedings

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Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

Section

130.901 Civil Penalties

130.905 Interest

130.910 Criminal Penalties

SUBPART J. BINDING OPINIONS

Section

130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section

130.1101 Definition of Federal Area

130.1105 When Deliveries on Federal Areas Are Taxable

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SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

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SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

130.1301 When Lessee of Premises Must File Return for Leased Department

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SUBPART N: SALES FOR RESALE

Section

130.1401 Seller's Responsibility to Determine the Character of the Sale at

the Time of the Sale

130.1405 Seller's Responsibility to Obtain Certificates of Resale

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130.1415 Resale Number--When Required and How Obtained

130.1420 Blanket Certificate of Resale

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

130.1501 Claims for Credit--Limitations--Procedure

130.1505 Disposition of Credit Memoranda by Holders Thereof

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SUBPART P: PROCEDURE TO BE FOLLOWED UPON

SELLING OUT OR DISCONTINUING BUSINESS

Section

130.1601 When Returns are Required After a Business is Discontinued

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SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

130.1701 General Information

SUBPART R: POWER OF ATTORNEY

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130.1801 When Powers of Attorney May be Given

130.1805 Filing of Power of Attorney With Department

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SUBPART S: SPECIFIC APPLICATIONS

Section

130.1901 Addition Agents to Plating Baths

130.1905 Agricultural Producers

130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage

Stamps and Like Articles

130.1915 Auctioneers and Agents

130.1920 Barbers and Beauty Shop Operators

130.1925 Blacksmiths

130.1930 Chiropodists, Osteopaths and Chiropractors

130.1935 Computer Software

130.1940 Construction Contractors and Real Estate Developers

130.1945 Co-operative Associations

130.1950 Dentists

130.1951 Enterprise Zones

130.1955 Farm Chemicals

130.1960 Finance Companies and Other Lending Agencies - Installment Contracts

- Repossessions

130.1965 Florists and Nurserymen

130.1970 Hatcheries

130.1975 Operators of Games of Chance and Their Suppliers

130.1980 Optometrists, Oculists and Opticians

130.1985 Pawnbrokers

130.1990 Peddlers, Hawkers and Itinerant Vendors

130.1995 Personalizing Tangible Personal Property

130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupa-

tions, and Their Suppliers

130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar

Enterprises Operated as Businesses, and Suppliers of Such Persons

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- 130.2006 Sales by Teacher-Sponsored Student Organizations
 130.2007 Exemption Identification Numbers
 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
 130.2015 Persons Who Repair or Otherwise Service Tangible Personal Property
 130.2020 Physicians and Surgeons
 130.2025 Picture-Framers
 130.2030 Public Amusement Places
 130.2035 Registered Pharmacists and Druggists
 130.2040 Retailers of Clothing
 130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
 130.2050 Sales and Gifts By Employers to Employees
 130.2055 Sales by Governmental Bodies
 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
 130.2065 Sales of Automobiles for Use in Demonstration
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 130.2090 Sales to Railroad Companies
 130.2095 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
 130.2100 Sellers of Feeds and Breeding Livestock
 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and their Suppliers
 130.2110 Sellers of Seeds and Fertilizer
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 130.2125 Trading Stamps and Discount Coupons
 130.2130 Undertakers and Funeral Directors
 130.2135 Vending Machines
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 130.2145 Vendors of Meals
 130.2150 Vendors of Memorial Stones and Monuments
 130.2155 Vendors of Signs
 130.2156 Vendors of Steam
 130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
 130.2165 Veterinarians
 130.2170 Warehousemen

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 440 et seq.) and authorized by Section 39b3 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 39b3).

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SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendments at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989, amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990

NOTE: Capitalization denotes statutory language.

Section 130.1940 Construction Contractors and Real Estate Developers

a) Definitions

- 1) "Construction Contractor." The word "construction contractor" when used herein includes general contractor, subcontractor and specialized contractor such as a landscape contractor. "Contractor" means any person who is engaged in the occupation of entering into and performing construction contracts for owners.
- 2) "Owner" means any person who enters into a contract with a contractor relative to the construction of a structure.

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electrical, plumbing or other specialized system, but which is not actually a part of any such system and is considered to remain personal property when installed, even if the contractor does install such equipment pursuant to a construction contract.

- 3) For information concerning the seller's taxability on receipts from installation charges where the seller is taxable notwithstanding his installation of the item, see Section 130.450 of this Part.
- 4) If the seller is taxable notwithstanding installation, but the sale and installation are made by the seller pursuant to his performance of a construction contract, the seller's receipts from that part of the transaction which actually comprises the construction contract are not subject to the Retailers' Occupation Tax. In this situation, if a separate charge is made for the tangible personal property as to which the construction contractor is taxable, the value of such property for purposes of computing the Retailers' Occupation Tax is the amount charged for such property, but not less than the cost of such property to the construction contractor. If no separate charge is made in this situation for the tangible personal property as to which the construction contractor incurs Retailers' Occupation Tax liability, the value of such property for computing the Retailers' Occupation Tax is the cost of such property to the construction contractor.

c) Construction Contractors--When Not Liable For Tax

A construction contractor does not incur Retailers' Occupation Tax liability as to receipts from labor furnished and tangible personal property (materials and fixtures) incorporated into a structure as an integral part thereof for an owner when furnished and installed as an incident of a construction contract. For example, a construction contractor does not incur Retailers' Occupation Tax liability on receipts from selling and installing screen doors and windows; storm doors and windows; weather stripping; insulation material; Venetian blinds; window shades; awnings; cabinets built into the structure; floor coverings cemented or otherwise permanently affixed to the structure (tacking not to be considered to be permanent affixation); plumbing systems or parts thereof, such as bathtubs, lavatories, sinks, faucets, water pumps, water heaters, water softeners, water pipes, etc.; heating systems or parts thereof, such as furnaces, stokers, boilers, heating pipes, etc.; ventilation systems or parts thereof; commercial refrigeration systems or parts thereof; electrical systems or parts thereof; brick, lumber, sheet metal; roofing materials, and other similar items. A landscape contractor does not incur Retailers' Occupation Tax liability as to receipts

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- 3) "Construct" means build, erect, construct, reconstruct, install, plane, repair, renovate or remodel.
- 4) "Structure" includes any building, house, edifice, tunnel, sewer, highway, road, bridge or any other type of structure, or any part thereof (including any system of plumbing, heating, ventilating, refrigerating, air conditioning, or any part thereof), or any other improvement to real estate.
- 5) "Materials" means all of the tangible personal property, including fixtures, which enter into a structure or otherwise become incorporated into real estate.
- 6) "Construction Contract" means a contract, written or oral, to "construct" (as that term is defined in Subsection (a)(3) above), a "structure" (as that term is defined in Subsection (a)(4), above) or to otherwise incorporate tangible personal property into real estate.
- 7) "Real Estate Developer" means any person engaged in the business of transferring title (legal or equitable) to real estate to others. The term does not include an isolated or occasional sale of real estate by a person not engaged in the business of selling real estate, and the term does not include a person who acts merely as agent for a commission to bring sellers and buyers of real estate together without ever actually taking either the legal or the equitable title to the real estate.

b) Construction Contractors--When Liable For Tax

- 1) Construction contractors incur Retailers' Occupation Tax liability when they engage in selling any kind of tangible personal property without installation to purchasers for use or consumption.
- 2) A construction contractor incurs Retailers' Occupation Tax liability when he sells furniture and furnishings, curtains, drapes, floor covering (except when he cements or otherwise permanently affixes the floor covering to a portion of the building), trade fixtures and machinery (unless in the case of machinery, Section 130.2115(b) of this Part applies) to purchasers for use or consumption, with or without installation by the seller, whether or not the seller furnishes and installs such items as a part of a construction contract. The same is true where he purchases and sells in finished form gas or electric stoves, refrigerators, washing machines, portable ventilating units and other portable equipment of this kind, which may be connected to and operated from a building's

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from labor furnished and tangible personal property incorporated into real estate as an integral part thereof for an owner when furnished and installed as an incident to a landscape contract. For example, a landscape contractor does not incur Retailers' Occupation Tax liability on receipts from selling and installing plants such as trees, shrubs, seedlings, sod and grass seed when planted in the ground, including fertilizer, mulch and soil incorporated into the ground in connection with such planting (plants sold in pots or other containers without being planted in the ground by the landscape contractor are not deemed to be planted in the ground). However, for information concerning the fact that a construction contractor is taxable on his cost price of the tangible personal property that he purchases and incorporates into real estate, see Section 130.2075 of this Part.

d) Real Estate Developers

- 1) A real estate developer does not incur Retailers' Occupation Tax liability on his receipts from selling real estate. However, for information concerning the fact that a real estate developer is taxable on his cost price of the tangible personal property that he purchases and incorporates into real estate, see Section 130.2075 of this Part.
- 2) A real estate developer incurs Retailers' Occupation Tax liability when transferring, to a user, tangible personal property which he purchases and sells in a finished form, and which remains personal property when installed, even though he includes the transfer of such tangible personal property in his sale of or his contract to sell real estate. The value of such tangible personal property for computing Retailers' Occupation Tax is the amount charged for such tangible personal property by the transferor if a separate charge is made, but not less than the cost of such tangible personal property to the transferor. If no separate charge is made for such tangible personal property, the value of such property for computing Retailers' Occupation Tax is the cost of such property to the transferor.

(Source: Amended at 14 Ill. Reg. 15463, effective September 10, 1990.)

Section 130.1965 Florists and Nurserymen

a) Florists--When Liable for Tax

Florists are engaged in the business of selling tangible personal property at retail and are liable for payment of the Retailers' Occupation Tax measured by receipts from sales of flowers, wreaths,

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bouquets, potted plants and other such items of tangible personal property to purchasers for use or consumption. This is true even though such items are made by the florists on special order.

b) Transactions Involving Telegraphic Instructions

Where florists conduct transactions through a florists' telegraphic delivery association, the following rules will apply in the computation of tax liability:

- 1) On all retail orders taken by an Illinois florist and telegraphed to a second florist in Illinois for delivery in this State, the sending florist will be held liable for Retailers' Occupation Tax with respect to the total amount which he collects from his customers, except for the cost of the telegram or the telephone message conveying delivery instructions where this item is charged for separately from the selling price of the flowers.
- 2) Where an Illinois florist receives an order pursuant to which he gives telegraphic instructions to a second florist located outside Illinois for delivery of flowers to a point outside Illinois, tax will likewise be owing with respect to the receipts of the sending florist from the customer who placed the order. (Effective July 1, 1971.)
- 3) Where Illinois florists receive telegraphic instructions from other florists located either within or outside of Illinois for the delivery of flowers, the receiving florist will not be held liable for tax with respect to any receipts which he may realize from the transaction. In this instance, if the order originated in Illinois, the tax will be due from and payable by the Illinois florist who first received the order and gave telegraphic instructions to the second florist.

c) Nurserymen

~~Where a nurseryman or florist sells shrubbery, young trees and similar items to purchasers for use or consumption, and, as a part of the transaction, transplants such property in the land of the purchaser, the entire receipts from the transaction are subject to the Retailers' Occupation Tax. Act, except as noted in Section 130.450 of this Part.~~

- 1) Where a nurseryman, landscape contractor or florist sells shrubbery, young trees and similar items to purchasers for use or consumption, and does not, as part of the transaction, plant

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the items in the ground, the entire receipts from the transaction are subject to Retailers' Occupation Tax.

- 2) However, where the items are transplanted by the seller in the land of the purchaser, the transaction is not subject to Retailers' Occupation Tax liability. In this situation, the seller functions as a construction contractor and incurs a Use Tax liability on his cost price of the items affixed to the purchaser's real estate.

(Source: Amended at 14 Ill. Reg. 15463, effective September 10, 1990.)

Section 130.2075 Sales to Construction Contractors, Real Estate Developers and Speculative Builders

- a) Sales to Construction Contractors, Real Estate Developers and Speculative Builders - When Taxable and When Not Taxable

- 1) Persons who engage in selling tools, equipment, fuel, supplies and other tangible personal property to construction contractors, real estate developers or speculative builders for use or consumption incur Retailers' Occupation Tax liability when making such sales. Also, persons who (apart from acting as construction contractors themselves) engage in selling building materials, fixtures, plants and other tangible personal property to construction contractors, speculative builders or real estate developers, who convert such items into real estate so as to take such items off the market as tangible personal property, incur Retailers' Occupation Tax liability when making such sales.

- 2) When the purchasing construction contractor (whether he is the prime contractor or the subcontractor) buys the item that he will convert into real estate in finished form, the tax base is what such construction contractor pays for the item. When the construction contractor-installer (whether he is the prime contractor or a subcontractor) is also the manufacturer of the finished item that he will incorporate into real estate for his customer, the tax base is what such construction contractor pays for the materials that he incorporates into such finished item, plus whatever such construction contractor may pay for nails, screws or other items of tangible personal property that he buys and incorporates into real estate for his customer in the course of making the installation of the finished item.

- 3) For information as to who qualifies as a construction contractor, see Section 130.1940(a) and (c) of this Part.

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- 4) Sales of tangible personal property to construction contractors, real estate developers or speculative builders who resell such property in the form of tangible personal property would not be taxable sales, but the construction contractor, real estate developer or speculative builder would be making taxable resales in this situation (see Section 130.1940(b) and (c) of this Part.)

- b) When and How Purchasing Contractor May Certify that He Will Assume Accountability for the Tax-Effect of Such Certification

- 1) When the purchaser of tangible personal property may use such property by converting it into real estate, but may resell such property "over-the-counter" apart from acting as a construction contractor, and where it is impracticable, at the time of purchasing such tangible personal property, for such purchaser to determine in which way he will dispose of the property, such purchaser may certify to his vendor that he is buying all of such tangible personal property for resale and thereafter account to the Department for the tax on disposing of such property.

- 2) Provided that the purchaser may not give such certification to his supplier unless the purchaser, if he will convert the tangible personal property into real estate in this State, agrees to, and does, assume the liability for reporting and paying the tax to the Department in the same form (Illinois Retailers' Occupation Tax, and local Retailers' Occupation Tax if applicable) in which the supplier would have reported and paid such tax if the supplier had accounted for the tax to the Department. This means that if the purchaser uses the tangible personal property by converting it into real estate in this State in any manner, he must include the cost price of such tangible personal property in his reported taxable receipts in his return form to the Department and must pay the State Retailers' Occupation Tax (not the Use Tax, but the Retailers' Occupation Tax) thereon to the Department, and must pay the Municipal or County Retailers' Occupation Tax thereon, if applicable.

- 3) The Municipal or County Retailers' Occupation Tax to be paid by the contractor or builder in this situation shall be paid for the benefit of the municipality in which the place of business at or from which the contractor or builder handles the transaction is located (or the unincorporated area of the county in which such place of business of the contractor or builder is located), if such municipality or county (as the case may be) has adopted the local Retailers' Occupation Tax at the time

When the contractor or builder converts the tangible personal property in question into real estate.

- 4) Such purchaser, who assumes the responsibility for accounting for the tax, must pay State Retailers' Occupation Tax (plus local Retailers' Occupation Tax, if applicable) on the full selling price of the tangible personal property if he resells the property "over-the-counter" to a user (including a construction contractor) apart from acting as a construction contractor himself.
- 5) A purchaser of this type would have to be registered with this Department under the Retailers' Occupation Tax Act since he would be incurring some Retailers' Occupation Tax liability, so he would be required to furnish his vendor with his Retailers' Occupation Tax registration number in the Certificate of Resale referred to hereinabove.
- 6) The tax involved in this Regulation Section is State Retailers' Occupation Tax and Use Tax and local Retailers' Occupation Tax, but not State or local Service Occupation Tax or Service Use Tax.

c) Use Tax on Out-Of-State Purchases

Tangible personal property bought outside this State either by Illinois or out-of-State construction contractors or builders in such a way that the seller does not incur Retailers' Occupation Tax liability and used in this State for building purposes is subject to the Use Tax. If the purchaser buys such tangible personal property from an out-of-State seller who is registered with the Department as a Use Tax collector, the purchaser should pay the Use Tax to such seller unless the purchaser is also a retailer and elects to assume responsibility for accounting for all the tax on such materials. If the purchaser buys such materials outside Illinois from an unregistered seller, the purchaser should pay the Use Tax directly to this Department. No local Retailers' Occupation Tax is applicable in this situation.

d) Sales of Materials to Construction Contractors Acting for Exclusively Charitable, Religious or Educational Organizations or Institutions, or for Governmental Bodies

- 1) Sales of materials to construction contractors for incorporation into real estate owned by exclusively charitable, religious or educational institutions or organizations, or for incorporation into real estate owned by governmental bodies, are exempt from Retailers' Occupation Tax and Use Tax. The intent of the legislation was to relieve the above designated kinds of purchasers

from the burden of tax on their purchases whether the purchases are made directly or indirectly by these organizations. Therefore, the exemption applies to their indirect purchase of building materials.

- 2) However, effective March 17, 1965, this exemption does not extend to sales of materials to construction contractors for incorporation into real estate owned by a national bank, a State chartered bank or a Federally or State chartered savings and loan association (see Section 130.2085 of this Part). Sales of materials to, and purchases of materials by, such construction contractors are taxable sales and purchases.
- 3) Also, sales of tools, fuel, lumber for forms and other end use or consumption items to construction contractors who do not incorporate these items into real estate are taxable sales regardless of who the contractor's customer may be, and this has been true since the beginning of the Act.
- 4) A supplier claiming exemption hereunder shall have among his records a certification from the purchasing contractor stating that his purchases are for conversion into real estate under a contract with a church, charity, school or governmental body, identifying the church, charity, school or governmental body that is involved by name and address and stating on what date his contract was entered into.
- 5) The person claiming the exemption has the burden of proving that the contractor's customer qualifies as an exclusively charitable, religious or educational organization or institution, or as a governmental body. In case of doubt on this point, require the contractor's customer to obtain a ruling from the Department of Revenue.

e) Sales of Materials to Construction Contractors for Incorporation into Public Improvements Which Are Required to be Transferred to a Unit of Local Government Upon Completion

For the same reason stated in Subsection (d) of this Part, sales to construction contractors of materials which will be physically incorporated into public improvements, the ownership of which is required to be conveyed to a unit of local government pursuant to a pre-development transfer requirement are exempt from Retailers' Occupation Tax and Use Tax. The pre-development transfer requirement may take the following forms:

- 1) Where language in the local governmental unit's subdivision ordinance explicitly requires that title to public improvements

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be transferred to the local governmental unit upon completion, the pre-development transfer requirement is satisfied as to all public improvements (such as roads and streets, sidewalks, sanitary sewer systems and storm water drainage systems) actually required to be transferred under the terms of that ordinance;

2) Where language in a pre-development agreement between the local governmental unit and a developer explicitly requires that title to public improvements be transferred to the local governmental unit upon completion, the pre-development transfer requirement is satisfied as to all public improvements actually required to be transferred under the terms of that pre-development agreement;

3) Where a plat of subdivision, formally approved by a municipality, has been recorded with the County Recorder of Deeds and where that recorded plat contains a public dedication of improvements, the pre-development transfer requirement is satisfied as to roads and streets located within the corporate limits of the approving municipality and any other improvements located within the corporate limits which are dedicated on the plat to the public use and for no other purpose;

4) Where a plat of subdivision, formally approved by a county with fewer than 500,000 inhabitants which has established regulations regarding location, width and course of roads and streets, has been recorded with the County Recorder of Deeds and where that recorded plat contains a public dedication of roads and streets located in the unincorporated area of the approving county, the pre-development transfer requirement is satisfied as to those public roads and streets. In this context, only grading and surface materials which actually become part of the roadbed and materials incorporated into curbs and gutters qualify for the exemption. Other items such as catchbasins, drainage pipe or materials incorporated into sidewalks do not qualify for the exemption.

(Source: Amended at 14 Ill. Reg. 15463, effective September 10, 1990.)

- 1) Heading of the Part: Service Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 140
- 3) Section Numbers: 140.140 Adopted Action: Amendment
- 4) Statutory Authority: Ill. Rev. Stat. 1989, ch. 120, par. 439.102
- 5) Effective Date of Amendment(s): September 10, 1990
- 6) Does this rulemaking contain an automatic repeal date? Yes X No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: September 10, 1990
- 9) Notice of Proposal Published in Illinois Register:
May 11, 1990, 14 Ill. Reg. 7123
(issue date)
- 10) Has JCAR issued a Statement of Objections to this Rule?: No
- 11) Differences between proposal and final version: No changes.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rule(s): This rulemaking makes no substantive change. It adds an example to the list of transactions taxable under the Service Occupation Tax Act. It specifies that transfers of fertilizer and lawn care chemicals incident to lawn care contracts constitute service situations taxable under the Service Occupation Tax Act (rather than retail situations taxable under the Retailers' Occupation Tax Act).

- 16) Information and questions regarding this adopted rule shall be directed to:

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

The full text of the Adopted Amendment begins on the next page:

- | | |
|---------|---|
| Section | Basis and Rate of the Service Occupation Tax |
| 140.101 | Registration of Servicemen |
| 140.105 | Presumption that Tax Applies (Repealed) |
| 140.110 | Occasional Sales to Servicemen by Suppliers (Repealed) |
| 140.115 | Meaning of Serviceman |
| 140.120 | Examples of Nontaxability |
| 140.125 | Exemption of Food, Drugs and Medical Appliances |
| 140.126 | Suppliers of Printers (Repealed) |
| 140.130 | Sales of Drugs and Related Items, to or by Pharmacists |
| 140.135 | Other Examples of Taxable Transactions |
| 140.140 | Multi-Service Situations |
| 140.145 | |

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|---------|---------------------|
| Section | General Definitions |
| 140.201 | |

- | | |
|---------|-----------------------------------|
| Section | Cost Price |
| 140.301 | Refunds by Supplier or Serviceman |
| 140.305 | |

- | | |
|---------|---|
| Section | Monthly Returns When Due--Contents of Returns |
| 140.401 | Annual Tax Returns |
| 140.405 | Final Return |
| 140.410 | Taxpayers' Duty to Obtain Form |
| 140.415 | Annual Information Returns by Servicemen |
| 140.420 | Filing of Returns for Serviceman "Suppliers" by their Suppliers |
| 140.425 | Under Certain Circumstances |
| 140.430 | Incorporation by Reference |

- | | |
|---------|---|
| Section | Sales of Service Involving Property Originating in Illinois |
| 140.501 | Sales of Service Involving Property Originating Outside of Illinois |
| 140.505 | (Repealed) |

- | | |
|---------|---------------------|
| Section | General Information |
| 140.601 | |

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SUBPART G: BOOKS AND RECORDS

Section
140.701 Requirements

SUBPART H: PENALTIES, INTEREST AND PROCEDURES

Section
140.801 General Information

SUBPART I: WHEN OPINIONS FROM THE DEPARTMENT ARE BINDING

Section
140.901 Written Opinions

SUBPART J: COLLECTION OF THE TAX

Section
140.1001 Payment of Tax to the Supplier
140.1005 Receipt to be Obtained for Tax Payments
140.1010 Payment of Tax Directly to the Department
140.1015 Itemization of the Tax by Suppliers
140.1020 Use of Bracket Chart
140.1025 Advertising in Regard to the Tax

SUBPART K: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING--MEANING OF DUE DATE WHICH FALLS ON SATURDAY, SUNDAY OR A HOLIDAY

Section
140.1101 Filing of Documents with the Department

SUBPART L: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section
140.1201 When Lessee of Premises May File Return for Leased Department
140.1205 When Lessor of Premises Should File Return for Leased Department
140.1210 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART M: USE OF EXEMPTION CERTIFICATES

Section
140.1301 When Purpose of Serviceeman's Purchase is Known (Repealed)
140.1305 When Purpose of Serviceeman's Purchase is Unknown
140.1310 Blanket Percentage Exemption Certificates (Repealed)

SUBPART N: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
140.1401 Claims for Credit--Limitations--Procedure
140.1405 Disposition of Credit Memoranda by Holders Thereof
140.1410 Refunds
140.1415 Interest

SUBPART O: DISCONTINUATION OF A BUSINESS

Section
140.1501 Procedures

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SUBPART P: NOTICE OF SALES OF GOODS IN BULK

Section
140.1601 Requirements and Procedures

SUBPART Q: POWER OF ATTORNEY

Section
140.1701 General Information

AUTHORITY: Implementing the Service Occupation Tax Act (Ill. Rev. Stat. 1989, ch. 120, pars. 439.101 et seq.) and authorized by Section 39b30 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1989, ch. 127, par. 39b30).

SOURCE: Adopted May 21, 1962; amended at 3 Ill. Reg. 23, p. 161, effective June 3, 1979; amended at 3 Ill. Reg. 44, p. 198, effective October 19, 1979; amended at 4 Ill. Reg. 24, pp. 526, 536 and 550, effective June 1, 1980; amended at 5 Ill. Reg. 822, effective January 2, 1981; amended at 6 Ill. Reg. 2879, 2883, 2886, 2892, 2895 and 2897, effective March 3, 1982; codified at 6 Ill. Reg. 9326; amended at 9 Ill. Reg. 7941, effective May 14, 1985; amended at 11 Ill. Reg. 14090, effective August 11, 1987; emergency amendment at 12 Ill. Reg. 14419, effective September 1, 1988, for a maximum of 150 days; emergency expired January 29, 1989; amended at 13 Ill. Reg. 9388, effective June 6, 1989; amended at 14 Ill. Reg. 262, effective January 1, 1990; amended at 14 Ill. Reg. 15480, effective September 10, 1990.

NOTE: Capitalization denotes statutory language.

Section 140.140 Other Examples of Taxable Transactions

- a) Sales of metal, wood, rubber and other ingredients by special tool, die, pattern and machinery producers who incorporate them into such products in such a manner as to be exempt from the Retailers' Occupation Tax Act, if the products are produced for users and delivered in Illinois (see Section 140.101(g), Service Occupation Tax);
- b) sales of bandages*, medicines*, drugs* and other tangible personal property by doctors to patients as an incident to the furnishing of professional services in Illinois;
- c) sales of medicines*, drugs*, dentures*, materials for fillings and other tangible personal property by dentists to patients as an incident to the furnishing of professional services in Illinois;
- d) sales of arch supports*, trusses*, braces*, etc., by chiropractors, osteopaths and chiropractors as an incident to the furnishing of licensed services in Illinois;

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- e) sales of collar supports, coat hangers, suit bags, paper, string, shirtboards, and other tangible personal property by laundries and dry cleaners as an incident to the furnishing of laundering and cleaning services in Illinois;
- f) sales of paper bags, wrapping paper, string and other tangible personal property as an incident to the furnishing of wrapping services in Illinois;
- g) sales of hair tonic and oil, pomades, powders, dyes, lotions, creams and other similar tangible personal property by barbers and beauticians as an incident to the furnishing of services in Illinois in such a way that the property remains on the person of the customer of the barber or beautician;
- h) sales of eyeglasses* and frames* by optometrists and oculists to customers as an incident to the furnishing of licensed services in Illinois; however, when the optometrist or oculist purchases the eyeglasses or frames in finished form from an optician, so that the optometrist or oculist has subcontracted a portion of his service work to the optician thus giving rise to a multi-service situation, see Section 140.145 of this Subpart;
- i) sales of book bindings by bookbinders and other tangible personal property by graphic arts servicemen in Illinois as an incident to the furnishing of services;
- j) sales of paint, wax, undercoating, oil, grease, filters, parts and other similar tangible personal property by automobile servicemen or other servicemen as an incident to the furnishing of services in Illinois;
- k) sales of wax and shoe polish by shoe shiners as an incident to the furnishing of shoe shining services;
- l) sales of repair parts, repair materials and other tangible personal property by persons who repair, remodel or recondition tangible personal property for others, as an incident to their furnishing of service to their customers; however, such purchases of repair parts and repair materials are not taxable when made by a railroad which will dispose of such parts or materials on a nonprofit basis by installing them, as a repairman, in cars belonging to another railroad at interchange points in connection with the interchange of traffic;
- m) sales of food, medicine* and other tangible personal property by business-operated hospitals and sanatoria or by licensed business-operated nursing homes as an incident to rendering hospital

- or nursing service in Illinois to patients;
- n) transfers of prizes by theaters as an incident to service;
- o) transfers of embalming fluid by funeral directors as an incident to their providing of an embalming service to others;
- p) transfers of dye as an incident to rendering service by persons engaged in the service occupation of dyeing clothing for users;
- q) sales of tangible personal property by sign makers as an incident to rendering service in the production of signs which are special enough to be exempt from the Retailers' Occupation Tax under Section 130.2155 of the Retailers' Occupation Tax (86 Ill. Adm. Code 130);
- r) sales made by servicemen as an incident to sales of service to national banks or State-chartered banks or to Federal or State savings and loan associations, and sales made by State-chartered banks or Federal and State savings and loan associations as an incident to sales of service. Sales by national banks as an incident to sales of service are also subject to Service Occupation Tax*;
- s) transfers of fertilizers, pesticides and lawn care chemicals incident to service provided under contracts to maintain lawns, trees, shrubs and other plants.
- t) The foregoing examples are illustrative, but not exhaustive.

AGENCY NOTE: Items with asterisks (*) are subject to 1% rate only.

(Source: Amended at 14 Ill. Reg. 15480, effective September 10, 1990.)

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1) Heading of Part: Issuance of Licenses2) Code Citation: 92 Ill. Adm. Code 10303) Section Numbers Adopted Action

1030.65 Amendment

1030.81 New Section

4) Statutory Authority: Sections 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 2-104(b)) and Sections 6-100 et seq. of the Illinois Driver Licensing Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 6-100 et seq.).

5) Effective Date of Amendments: September 10, 19906) Does this rulemaking contain an automatic repeal date? Yes ☒ No ☐ X No.7) Does this amendment contain incorporations by reference? No.8) Date Filed in Agency's Principal Office: September 10, 19909) Notice of Proposal Published in Illinois Register: 14 Ill. Reg. 5060 (April 6, 1990).10) Has JCAR Issued a Statement of Objections to this Rule? No.11) Differences between proposal and final version.

Pursuant to suggestions from the Administrative Code Division, Office of the Secretary of State, the following changes were made:

In the Table of Contents the newly adopted rule was added: "1030.91 Disabled Person/Handicapped Identification Card."

The Main Source Note was updated to current status; following the Main Source note, the word "Note" was added at the beginning of the statutory language note.

At Section 1030.81(a) in the definition of "Commercial Driver's License (CDL)", the Ill. Revised Statute citation was deleted and replaced with "(Section 6-500 of the Illinois Driver Licensing Law of the Illinois Vehicle Code.)"; additionally, in the definition of "Hazardous Material", in the U.S.C.A. cite, "Sec." was deleted; also in the definition of "Tanker-type Vehicle", the Ill. Revised Statute citation was deleted and replaced with "(Section 6-500(2a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code.)"

Pursuant to an agreement with the Joint Committee on Administrative Rules of the Office of the Secretary of State, the following changes were made:

Section 1030.65 was adopted at 14 Ill. Reg. 4570 on March 8, 1990. It is being re-submitted at Second Notice because of clerical error.

When section 1030.65 was published at 13 Ill. Reg. 14019, September 8, 1989, paragraph (g) at line 13 read as follows:

"Upon successful completion of the written and vision tests, he/she shall be issued, if not otherwise disqualified, an instruction permit which shall be valid for twelve (12) months, but may be cancelled after thirty (30) days unless a written statement is received from the licensed physician requesting a thirty (30) day extension or notification that the applicant has successfully completed the evaluation. A medical restriction card shall be issued by the Department to the applicant and must be carried with the instruction permit. Upon successful completion of the driving evaluation, the rehabilitation institution shall notify the Department and the Department shall send the applicant an authorization form instructing him/her to appear at a Driver Services Facility to take the drive portion of the examination. Upon the applicant's successful completion of the drive examination, a driver's license shall be issued."

During the Second Notice period, the Secretary and JCAR agreed to change the above language as follows: after the words "valid for twelve (12) months", the rest of the sentence was deleted and replaced with "but shall be cancelled upon receipt of a written statement from a licensed physician at a rehabilitation institution that the instruction permit holder has failed to successfully complete the driving evaluation or is otherwise unable to safely operate a motor vehicle." When the rule was sent for adoption, the remaining language in paragraph (g) was deleted in error. Neither the Secretary, nor JCAR intended that the following language be deleted:

"A medical restriction card shall be issued by the Department and must be carried with the instruction permit. Upon successful completion of the driving evaluation, the rehabilitation institution shall notify the Department and the Department shall send the applicant an authorization form instructing him/her to appear at a Driver Services Facility to take the drive portion of the examination. Upon the applicant's successful completion of the drive examination, a driver's license shall be issued."

Accordingly, the Secretary requests that the above language be re-inserted, so that the last three sentences of the section read as they did on First Notice. If the language is not re-inserted, the public will have had no knowledge that a substantial portion of the section was deleted, albeit in error.

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At Section 1030.81(b) the new language was changed to read as follows:
 "b) To obtain any of the following endorsements, a commercial driver's license operator must correctly answer 80% of the questions comprising a written knowledge test based on the Illinois Vehicle Code and the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2704):

- 1) (T) Double or triple trailers (20 questions).
- 2) (P) Passenger carrying vehicles (16 or more passengers, including the driver). A skills test in a representative vehicle is required (20 questions).
- 3) (N) Tank vehicles (20 questions).
- 4) (H) Any vehicle carrying hazardous materials which requires placarding (30 questions).
- 5) (X) Combination tank vehicle and hazardous materials endorsement. A knowledge test for tank vehicles (N) and hazardous materials (H) must both be successfully completed prior to obtaining this endorsement (20 questions)."

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the Agreement Letter issued by JCAR? Yes.

13) Will this rule replace any Emergency Rule(s) currently in effect? No.

14) Are there any other amendments pending on this Part? No.

15) Summary and Purpose of Rule: Section 1030.65 establishes the criteria for the Secretary of State to issue patients at a rehabilitative institution whose driving privileges have been cancelled based upon receipt by the Department of a medical statement that the applicant has a medical condition which impairs his/her ability to safely operate a motor vehicle an instruction permit while undergoing a driving evaluation with a driver education specialist; and Section 1030.81 contains the list of possible endorsements which could be listed on a driver's license and would indicate the driver has qualified to operate certain types and/or combinations of vehicles and/or carry specified cargo.

16) Information and answers to questions regarding this Adopted Rule should be directed to:

Nancy S. Short
 Assistant Counsel to the Secretary
 2701 S. Dirksen Parkway
 Springfield, IL 62723
 Tel: 217/782-5356

The full text of the Adopted Rule begins on the next page.

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TITLE 92: TRANSPORTATION
 CHAPTER II: SECRETARY OF STATE

PART 1030
 ISSUANCE OF LICENSES

Section	
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License
1030.15	Cite for Re-examination
1030.20	Classification of Drivers-References
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Employer Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lens(es)
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts/Road Test
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Licenses
1030.90	Requirement For Photograph and Signature of Licensee On Driver's License
1030.91	Disabled Person/Handicapped Identification Card
1030.92	Restrictions
1030.93	Restricted Local Licenses
1030.94	Duplicate or Corrected Driver's License or Instruction Permit
1030.95	Consular Licenses
1030.100	Anatomical Gift Donor
1030.110	Emergency Medical Information Card
1030.115	Change-of-Address
1030.120	Issuance of a Probationary License
1030.130	Grounds for Cancellation of a Probationary License
Appendix A Questions Asked of a Driver's License Applicant	
Appendix B Acceptable Identification Documents	

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 6-100 et seq.) and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 1/2, par. 2-104(b)).

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SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13988, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990.

Note: Bold type denotes statutory language.

Section 1030.65 Instruction Permits

- a) For purposes of this Section, the following definitions shall apply:

"Applicant" - person applying for an instruction permit.
"Certificate of Completion (Blue Slip)" - a document issued by the Illinois State Board of Education or the office which regulates education in another state to students who have successfully completed their driver education course. The blue slip in Illinois is issued by the Illinois Secretary of State's Office if the student completed behind the wheel instruction at an approved commercial driving school as provided in 92 Ill. Adm. Code 1060 and Section 6-411(g) of the Illinois Driver Licensing Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987², ch. 95 1/2, par. 6-411(g)).

"Class "L" Instruction Permit" - permit to operate a motor driven cycle with less than 150 cc displacement.

"Class "M" Instruction Permit" - permit to operate any motorcycle or any motor driven cycle.

"Department" - Department of Driver Services within the Office of the Secretary of State.

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"Driver Education Course" - a course of instruction in the use and operation of cars, including instruction in the safe operation of cars, rules of the road and the law of the State relating to motor vehicles, which meets the minimum requirements of the Driver Education Act (Ill. Rev. Stat. 1987⁹, ch. 122, par. 27-24 et seq.) and Section 1-103 of the Illinois Vehicle Code (Ill. Rev. Stat., 1987⁹, ch. 95 1/2, par. 1-103).

"Driver Education Specialist" - an individual trained by a Rehabilitation Institute to evaluate an applicant's background information, administer classroom tests, and assess the driving skills under varying traffic conditions.

"Driving Evaluation" - Assessment of an applicant's ability to safely operate a motor vehicle performed by a driver education specialist at a Rehabilitation Institute.

"Illinois Medical Restriction Card" - a card which specifies special limitations to a person's driving privileges as provided in Section 6-113 of the Illinois Driver Licensing Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987⁹, ch. 95 1/2, par. 6-113).

"In Loco Parentis" - person who is acting in place of a minor's parent with a parent's rights, duties, and authority.

"Licensed Physician" - physician licensed to practice medicine in the State of Illinois.

"Minor" - a person under eighteen.

"Rehabilitation Institution" - any hospital, center, institute or facility engaged in a program to provide driver training for the disabled.

- b) A person who wishes to practice driving before obtaining his/her driver's license shall obtain an instruction permit from a Secretary of State's driver services facility.

- c) A minor who wishes to receive an instruction permit shall be at least fifteen (15) years old and enrolled in a driver education course. Any minor who has been enrolled in a driver education program out-of-state shall provide proof of such enrollment before he/she shall be issued an Illinois instruction permit. Proof shall consist of a letter from the minor's school on the school's letterhead or other proof deemed acceptable by the Secretary of State. The minor shall complete a driver education course if he/she wants to apply for a driver's license before he/she is eighteen (18) years of age. If the minor is sixteen (16) years of age or older and has in his/her possession a

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certificate of completion or the equivalent, from another state's driver education program, he/she shall be eligible to receive an Illinois driver's license upon successful completion of the vision, written and/or road tests. The equivalent for Illinois of a certificate of completion from an out-of-state driver education course shall include but is not limited to, transcripts from the out-of-state attendance center indicating successful completion of the course of instruction or a letter from the state's driver's licensing authority on agency letterhead, attesting to the minor's successful completion of a driver education course approved by the office in that state which regulates education.

- d) The minor who is not legally emancipated by marriage or court order shall have his/her application signed by a parent, guardian, or person in loco parentis and the driver education instructor. The minor shall then be allowed to take the vision and written exams.
- e) The instruction permit shall be issued to an unemancipated minor for a period of one (1) year upon successful completion of the written and vision exams. If an instruction permit has expired prior to the applicant completing the road test, a second fee as established for driver's instruction permits in Section 6-118(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code (Ill. Rev. Stat. 19879, ch. 95 1/2, par. 6-118(a)) must be obtained and the written and vision exams must be retaken. The applicant shall present another application to the Secretary of State signed by the parent, guardian, or person in loco parentis. The driver's education instructor shall also sign the application unless the applicant presents a certificate of completion (blue slip).

- f) Applicants who are not minors shall also be issued instruction permits by the Secretary of State. The permit shall be issued for one (1) year upon successful completion of the written and vision exams.

- g) Applicants whose driving privileges have been cancelled based upon receipt by the Department of a medical statement indicating the applicant has a medical condition which impairs his/her ability to safely operate a motor vehicle may apply for an instruction permit. The Department shall receive a request for an instruction permit from the applicant along with a statement from a licensed physician at a rehabilitation institution describing the applicant's needs to undergo a driving evaluation with a driver education specialist. The Department shall issue to the applicant an authorization for examination to appear at a Driver Services Facility to take the written examination, vision test and submit the required fee as provided in Section 6-118 of the Illinois Driver Licensing Law of the Illinois Vehicle Code (Ill. Rev. Stat. 19879, ch. 95 1/2, par. 6-118). Upon successful completion of the written and vision tests, he/she shall be issued, if not otherwise disqualified, an instruction

permit which shall be valid for twelve (12) months, but shall be cancelled upon receipt of a written statement from a licensed physician at a rehabilitation institution that the instruction permit holder has failed to successfully complete the driving evaluation or is otherwise unable to safely operate a motor vehicle. A medical restriction card shall be issued by the Department and must be carried with the instruction permit. Upon successful completion of the driving evaluation, the rehabilitation institution shall notify the Department and the Department shall send the applicant an authorization form instructing him/her to appear at a Driver Services Facility to take the drive portion of the examination. Upon the applicant's successful completion of the drive examination, a driver's license shall be issued.

- h) An applicant must be at least sixteen (16) years old to obtain a class "L" instruction permit. He/she shall have obtained his/her blue slip at the time he/she applies for the "L" instruction permit. If he/she is at least eighteen (18) years old, a blue slip is not necessary. The class "L" instruction permit is issued by the Secretary of State for a period of one (1) year.

- i) The class "M" instruction permit is issued by the Secretary of State to a person eighteen (18) years old or older for a period of 1 year. Class "M" instruction permits shall be issued to persons sixteen (16) or seventeen (17) years old if they have completed a motorcycle training course approved by the Illinois Department of Transportation as provided by 92 Ill. Adm. Code 455. A certificate of completion card issued by the Illinois Department of Transportation must be furnished to the Secretary of State's Office before an instruction permit shall be issued.

(Source: Amended at 14 Ill. Reg. 15487, effective September 10, 1990)

Section 1030.81 Endorsements

- a) For purposes of this Section, the following definitions shall apply:

"Commercial Driver's License (CDL)" - a driver's license issued by a State to a person, which authorizes that person to drive a certain class of commercial motor vehicle or vehicles. (Section 6-500 of the Illinois Driver Licensing Law of the Illinois Vehicle Code.)

"Commercial Motor Vehicle" - a motor vehicle having a Gross Vehicle Weight Rating (GVWR) of 26,001 pounds or more, or such lesser GVWR as subsequently determined by Federal regulations or the Secretary of State; or any combination of vehicles with a Gross Combination Weight Rating (GCWR) of 26,001 pounds or more.

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NOTICE OF ADOPTED AMENDMENT(S)

provided the GVWR of any vehicle(s) being towed is 10,001 pounds or more; or a vehicle designed to transport 16 or more persons; or a vehicle transporting hazardous materials that is required to be placarded. The definition does not include recreational vehicles when operated primarily for personal use, military vehicles being operated by non-civilian personnel or firefighting equipment owned or operated by or for a governmental entity.

"Endorsement" - an indication on the driver's license that the driver has qualified to operate certain types and/or combinations of vehicles, and/or carry specified cargo.

"Hazardous Material" - a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce. (49 U.S.C.A. 1802.)

"Representative Vehicle" - a motor vehicle which represents the type that a driver applicant operates or expects to operate.

"Tanker-type Vehicle" - any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle. However, a tanker-type vehicle does not include any vehicle in which the tank, that is either permanently or temporarily attached, has a rated capacity of less than 1,000 gallons. (Section 6-500(28) of the Illinois Driver Licensing Law of the Illinois Vehicle Code.)

b) To obtain any of the following endorsements, a commercial driver's license operator must correctly answer 80% of the questions comprising a written knowledge test based on the Illinois Vehicle Code and the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2704):

- 1) (T) Double or triple trailers (20 questions).
- 2) (P) Passenger carrying vehicles (16 or more passengers, including the driver). A skills test in a representative vehicle is required (20 questions).
- 3) (N) Tank vehicles (20 questions).
- 4) (H) Any vehicle carrying hazardous materials which requires placarding (30 questions).
- 5) (X) Combination tank vehicle and hazardous materials endorsement. A knowledge test for tank vehicles (N) and hazardous materials (H) must both be successfully completed prior to obtaining this endorsement (20 questions).

(Source: Added at 14 Ill. Reg. 15487, effective September 10, 1990.)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED REPEALER

- 1) Heading of Part: Driving and Parking
- 2) Code Citation: 92 Ill. Adm. Code 397.
- 3) Section Numbers: Adopted Action:
 397.1, 397.3, 397.5, Repealed
 397.7, 397.9, 397.11, Repealed
 397.13, 397.15, 397.17, Repealed
 397.19, 397.21 Repealed
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (Ill.Rev.Stat.1983, ch. 95 1/2, pars. 700-4(a) and 700-9(a)).
- 5) Effective date of rules: September 10, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) Date filed in agency's principal office: September 4, 1990
- 9) Notice of proposal published in Illinois Register:
 May 18, 1990, 14 Ill. Reg. 7429
- 10) Has JCAR issued a Statement of Objections to this repealer?
 NO
- 11) Differences between proposal and final version:
 . The Department changed its incorporation by reference date from, "February 15, 1990" to "October 1, 1989" in Item #15 of the Notice of Adopted Repealer. Such incorporation by reference refers to the new Part 397 and not the repealer.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were necessary.
- 13) Will this rule replace an Emergency Rule currently in effect? No
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED REPEALER15) Summary and purpose of rules:

By this Notice of Adopted Repealer, the Department is repealing Part 397 in its entirety, and elsewhere in this issue of the Illinois Register is adopting new rules on Driving and Parking, Part 397, by incorporating 49 CFR 397 by reference as of October 1, 1989. Part 397 prescribes requirements as they apply to each motor carrier engaged in the transportation of hazardous materials by highway. For a more detailed explanation of the requirements contained in Part 397, please see the Notice of Adopted Rules for Part 397 published elsewhere in this issue.

16) Information and questions regarding these adopted rules shall be directed to:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 W. Washington
Room 606
Springfield

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

- 1) Heading of Part: Driving and Parking
- 2) Code Citation: 92 Ill. Adm. Code 397
- 3) Section Numbers:

397.1000	New Section
397.1010	New Section
397.1020	New Section
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (Ill.Rev.Stat. 1989, ch. 95 1/2, pars. 700-4(a) and 700-9(a)).
- 5) Effective date of rules: September 10, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference?
Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: September 4, 1990
- 9) Notice of proposal published in Illinois Register:
May 18, 1990, 14 Ill. Reg. 7424
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:
The following changes were made pursuant to comments from the Administrative Code Division:
 - In the Notice of Adopted Rules, Item #3, entitled "Section Numbers," the Department replaced, "397.2000" with "397.1010" and "397.1020."
 - The Department updated the Ill.Rev.Stat. citation to reflect the "1989" edition, and/or deleted the reference to P.A. 86-611 in this Part in the following locations:

In Item #4 in the Notice of Adopted Rules;

In Item #15 in the Notice of Adopted Rules;
In the Authority Note in the Text.

The following change was made pursuant to public comment:

Section 397.1010 has been revised by adding Section 397.1010(c) which addresses the issue of transporting hazardous materials from retailer to agricultural end users.

The following changes were made pursuant to agreements with the JCAR:

The Department changed its incorporation by reference date from, "February 15, 1990" to "October 1, 1989" in Item #15 of the Notice of Adopted Rules and in Section 397.1020(a) in the text of this Part.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.
- 13) Will this rule replace an Emergency Rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rules:

By this rulemaking, the Department provides for the incorporation by reference of 49 CFR 397, of the Federal Motor Carrier Safety Regulations (FMCRSRs) (49 CFR 390, 391, 392, 393, 395, 396 and 397), as of October 1, 1989. While the Department has identified no changes to 49 CFR 397, it has undertaken this rulemaking to include this Part in 92 Ill. Adm. Code: Chapter 1, Subchapter d of the Motor Carrier Safety Regulations (MCSRs) and to be consistent with the other Parts of the MCSR.

This Part prescribes the requirements for driving and parking for each motor carrier engaged in the transportation of hazardous materials by motor vehicle in Illinois.

- 16) Information and questions regarding these adopted rules shall be directed to:

ILLINOIS REGISTER

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 397

DRIVING AND PARKING

Section

397.1000

General

397.1010

Application

397.1020

Incorporation By Reference of 49 CFR 397

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 700-4(a) and 700-9(a)).

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; codified at 8 Ill. Reg. 17986; recodified from 92 Ill. Adm. Code 397. Subchapter c at 14 Ill. Reg. 3281; Part repealed, new Part adopted at 14 Ill. Reg. 15496, effective September 10, 1990.

Section 397.1000 General

This Part prescribes the requirements for driving and parking for each motor carrier engaged in the transportation of hazardous materials by a motor vehicle in Illinois.

Section 397.1010 Application

- a) This Part applies to each motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823) and to:
 - 1) Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials; and
 - 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.
- b) Each person designated in subsection (a) must know and obey the rules in this Part.
- c) This Part does not apply to the transportation of hazardous materials cited in 92 Ill. Adm. Code 171.6, agricultural exception, when such commodities are transported from retailer to final agricultural end user, or between final end users from farm to farm in approved containers and in the amounts and manner

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

specified.

Section 397.1020 Incorporation By Reference of 49 CFR 397

- a) The Department incorporates "Driving and Parking" (49 CFR 397) by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1989, subject only to the exceptions in subsections (b) and (c). No later amendments to or editions of 49 CFR 397 are incorporated.
- b) Section 397.1 is deleted and not incorporated.
- c) Section 397.2 is deleted and not incorporated.
- d) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

- 1) Heading of Part: Driving of Motor Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 392
- 3) Section Numbers: Adopted Action:
 392.1000 New Section
 392.2000 New Section
- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill.Rev.Stat.1989, ch. 95 1/2, pars. 18b-100 et seq.)
- 5) Effective date of rules: September 10, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference?
 Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: September 4, 1990
- 9) Notice of proposal published in Illinois Register:
 May 18, 1990, 14 Ill. Reg. 7438
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:

The following changes were made pursuant to comments from the Administrative Code Division:

- The Department updated the Ill.Rev.Stat. citation to reflect the "1989" edition, and/or deleted the reference to P.A. 86-611 in this Part in the following locations:

In Item #4 in the Notice of Adopted Rules; and
 In the Authority Note in the Text.

- In the 2nd paragraph of Item #15 in the Notice of Adopted Rules, the Department replaced, "92 Ill. Adm. Code," with "92 Ill. Adm. Code:"

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

- In Section 392.2000(a), line four, the Department replaced the word "were" with the word "was."
- The following changes were made pursuant to agreements with the JCAR:

- The Department changed its incorporation by reference date from, "February 15, 1990" to "October 1, 1989" in the Notice (Item #15) and in Section 392.2000(a) in the text of this Part.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.

- 13) Will this rule replace an Emergency Rule currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and purpose of rules:

The requirements contained in "Driving of Motor Vehicles" (49 CFR 392) were adopted by the General Assembly in P.A. 86-611, enacted September 1, 1989, which amended the Illinois Motor Carrier Safety Law (the Law) (Ill.Rev.Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.) to apply to all carriers, drivers and vehicles to which the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR 390, 391, 392, 393, 395, 396, and 397) apply. Additionally, the Law provided that the FMSCR would apply to all intrastate carriers, drivers and the vehicles they operate when such vehicles are registered for a gross weight of 12,001 pounds or more, and are operated for the transportation of property and used in the furtherance of any commercial or industrial enterprise.

By adopting this rulemaking, the Department provides for the incorporation by reference of 49 CFR 392 as of October 1, 1989. While the Department has identified no changes to 49 CFR 392, it has undertaken this rulemaking to include this Part in 92 Ill. Adm. Code: Chapter I, Subpart d which is titled the Motor Carrier Safety Regulations (MCSR) and to be consistent with other Parts of the MCSR.

- 16) Information and questions regarding these adopted rules shall be directed to:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 392
DRIVING OF MOTOR VEHICLES

Section
392.1000 General
392.2000 Incorporation by Reference of 49 CFR 392

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.).

SOURCE: Adopted at 14 Ill. Reg. 15503, effective September 10, 1990

Section 392.1000 General

This Part prescribes the requirements for the management, maintenance, operation, or driving of motor vehicles, or the hiring, supervising, training, assigning, or dispatching of drivers in Illinois.

Section 392.2000 Incorporation by Reference of 49 CFR 392

- a) "Driving of Motor Vehicles" (49 CFR 392) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1989. No later amendments to or editions of 49 CFR 392 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in the FMCSR.

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NOTICE OF ADOPTED RULES

replaced the word "were" with the word "was."
The following changes were made pursuant to agreements with the JCAR:

The Department changed its incorporation by reference date from, "February 15, 1990" to "October 1, 1989" in Item #15 of the Notice of Adopted Rules and in Section 395.2000(a) in the text of this Part.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules:

The requirements contained in "Hours of Service of Drivers" (49 CFR 395) were adopted by the General Assembly in P.A. 86-611, effective September 1, 1989, which amended the Illinois Motor Carrier Safety Law (the Law) (Ill.Rev.Stat. 1989, Ch. 95 1/2, pars. 18b-100 et seq.), to apply to all carriers, drivers and vehicles to which the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR 390, 391, 392, 393, 395, 396, and 397) apply. Additionally, the Law provided that the FMCSR would apply to all intrastate carriers, drivers, and the vehicles they operate when such vehicles are registered for a gross weight of 12,001 pounds or more, and are operated for the transportation of property and are used in the furtherance of any commercial or industrial enterprise.

By adopting this rulemaking, the Department provides for the incorporation by reference of 49 CFR 395 as of October 1, 1989 so that all Parts included in 92 Ill. Adm. Code: Chapter I, Subchapter d will have consistent effective dates.

In Section 395.2000(c), the Department provides for the exceptions to 49 CFR 395 that are cited in Section 18b-105 of the Law.

16) Information and questions regarding these adopted rules shall be directed to:

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED RULES

1) Heading of Part: Hours of Service of Drivers

2) Code Citation: 92 Ill. Adm. Code 395

3) Section Numbers: Adopted Action:

395.1000 New Section
395.2000 New Section

4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill.Rev.Stat.1989, ch. 95 1/2, pars. 18b-100 et seq.)

5) Effective date of rules: September 10, 1990

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference?

Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.

8) Date filed in agency's principal office: September 4, 1990

9) Notice of proposal published in Illinois Register:

May 18, 1990, 14 Ill. Reg. 7442

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version:

The following changes were made pursuant to comments from the Administrative Code Division:

The Department updated the Ill.Rev.Stat. citation to reflect the "1989" edition, and/or deleted the reference to P.A. 86-611 in this Part in the following locations:

In Item #4 in the Notice of Adopted Rules;
In Item #15 in the Notice of Adopted Rules;
In the Authority Note in the Text; and
In Section 395.2000(c)(1).

In Section 395.2000(a), line four, the Department

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 395
HOURS OF SERVICE OF DRIVERS

Section
395.1000 General
395.2000 Incorporation by Reference of 49 CFR 395

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.).

SOURCE: Adopted at 14 Ill. Reg. 15507, effective September 10, 1990

NOTE: Capitalization denotes statutory language.

Section 395.1000 General

This Part prescribes the hours of service requirements for drivers of commercial motor vehicles in Illinois.

Section 395.2000 Incorporation by Reference of 49 CFR 395

- a) "Hours of Service of Drivers" (49 CFR 395) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1989, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 395 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 395 shall apply for purposes of this Part.
 - 1) Section 395.8(1)(1) as it applies to intrastate carriers is amended to establish that DRIVERS SHALL OPERATE WITHIN A 200 AIR-MILE RADIUS OF THE NORMAL WORK REPORTING LOCATION TO QUALIFY FOR EXEMPT STATUS. (Section 18b-105(d) of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 18b-105(d))

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

- 2) Part 395 SHALL NOT APPLY TO AGRICULTURAL MOVEMENTS that are engaged in intrastate commerce. (Section 18b-105(c)(6) of the Law)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

- 1) Heading of Part: Inspection, Repair and Maintenance
- 2) Code Citation: 92 Ill. Adm. Code 396
- 3) Section Numbers: Adopted Action:
396.1000 New Section
396.2000 New Section
396.2010 New Section
- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill.Rev.Stat.1989, ch. 95 1/2, pars. 18b-100 et seq.)
- 5) Effective date of rules: September 10, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference?
Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: September 4, 1990
- 9) Notice of proposal published in Illinois Register:
May 18, 1990, 14 Ill. Reg. 7447

Notice of corrections published in Illinois Register:

June 8, 1990, 14 Ill. Reg. 2262

- 10) Has JCARE issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:

The following changes were made pursuant to comments from the Administrative Code Division:

- . The Department updated the Ill.Rev.Stat. citation to reflect the "1989" edition, and/or deleted the reference to P.A. 86-611 in this Part in the following locations:

In Item #4 in the Notice of Adopted Rules;
In Item #15 in the Notice of Adopted Rules;

DEPARTMENT OF TRANSPORTATION
NOTICE OF ADOPTED RULES

The Department inserted commas around "by reason of its mechanical condition or loading" in Section 396.2010(c)(1).

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.
- 13) Will this rule replace an Emergency Rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rules:

By adopting this rulemaking, the Department is establishing requirements for the inspection, repair and maintenance of commercial motor vehicles in compliance with Public Act 86-611, effective September 1, 1989, which amended the Illinois Motor Carrier Safety Law (the Law) (Ill.Rev.Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.).

The Department has incorporated by reference "Inspection, Repair and Maintenance" (49 CFR 396), at Section 396.2000, except as indicated in Section 396.2000(c), as of October 1, 1989, as amended at 54 FR 50722, December 8, 1989.

The Department has not incorporated 49 CFR 396.9 since this section deals only with US DOT procedures for the inspection of vehicles; however, the Department has included provisions for the inspection of vehicles in operation in a new Section 396.2010 which also includes out-of-service criteria.

The exceptions provided for in Section 396.2000(c)(2) and (3) were established in Section 18b-105 of the Law.

Any commercial motor vehicle used in intrastate commerce that is inspected semi-annually pursuant to Section 13-109 of the Illinois Vehicle Code (the Code) (Ill.Rev.Stat.1989, ch. 95 1/2, par. 13-109) has complied with the periodic inspection procedures required by 49 CFR 396.17.

This rule has incorporated changes to 49 CFR 396 as explained by US DOT in the following rulemaking docket printed in the Federal Register:

FHWA Docket MC-113 [54 FR 50722 (December 8, 1989)]

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NOTICE OF ADOPTED RULES

In the Authority Note in the Text;
In Section 396.2000(c)(2); and
In Section 396.2000(c)(4).

Regarding the Code Division's comment #2, the Department did not make any change to Section 396.2000(a) because the word "was" is already correctly being used in this Section.

In Section 396.2000(c)(4), line 3, the Department added the full citation to the Illinois Vehicle Code, and defined it as "(the Code)."

The following change was made pursuant to public comment:

The Department added a new Section 396.2010 entitled, "Inspection of Vehicles in Operation" which contains provisions for authorization of the inspection of vehicles in operation; declaring vehicles out-of-service; forbidding the removal of out-of-service sticker; and prescribing the carrier's disposition of vehicles declared out-of-service.

The following changes were made pursuant to agreements with the JCAR:

The Department changed the incorporation by reference date from "February 15, 1990" to "October 1, 1989, as amended at 54 FR 50722, December 8, 1989" in Item #15 of the Notice of Adopted Rules and in Section 396.2000(a).

The Department revised the new Section 396.2010, in agreement with JCAR, to correct minor typographical errors and to change "Illinois Commercial Driver/Inspection Report" to "Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238)" in Section 396.2010(b); Section 396.2010(c)(2); and Section 396.2010(d)(3).

The Department corrected the spelling of "requirements" in Section 396.1000.

The Department replaced "unless" with "until" in Section 396.2010(c)(2) for clarification.

The Department added an "s" to "inspection" in the second sentence in Section 396.2010(a).

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

Docket MC-113 (December 8, 1989) - In this docket, FHWA delayed until July 1, 1990, the date by which compliance with the periodic inspection requirements for vehicles used in interstate commerce must be met.

16) Information and questions regarding these adopted rules shall be directed to:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 396
INSPECTION, REPAIR AND MAINTENANCE

Section
396.1000 General
396.2000 Incorporation by Reference of 49 CFR 396
396.2010 Inspection of Vehicles in Operation

AUTHORITY: Implementing Section 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.).

SOURCE: Adopted at 14 Ill. Reg. 15512, effective September 10, 1990

NOTE: Capitalization denotes statutory language.

Section 396.1000 General

This Part prescribes the requirements for the inspection, repair and maintenance of commercial motor vehicles in Illinois.

Section 396.2000 Incorporation by References of 49 CFR 396

- a) The Department incorporates "Inspection, Repair and Maintenance" (49 CFR 396) by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1989, as amended at 54 FR 50722, December 8, 1989, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 396 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 396 shall apply for purposes of this Part.
 - 1) Section 396.9 is deleted and not incorporated.
 - 2) SECTION 396.11 SHALL NOT APPLY TO THE OPERATOR OF A COMMERCIAL VEHICLE USED IN INTRASTATE COMMERCE. (Section 18b-105(c)(3) of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 18b-105(c)(3))

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- 3) PARAGRAPHS (b) AND (c) OF SECTION 396.13 SHALL NOT APPLY TO THE OPERATOR OF A COMMERCIAL VEHICLE USED IN INTRASTATE COMMERCE. (Section 18b-105(c)(4) of the Law)
- 4) Any commercial motor vehicle used in intrastate commerce that is inspected semi-annually pursuant to Section 13-109 of the Illinois Vehicle Code (the Code) (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 13-109) has complied with the periodic inspection procedures required by section 396.17.

Section 396.2010 Inspection of Vehicles in Operation

- a) Personnel authorized to perform inspections. The Illinois State Police are authorized to enter upon and perform inspections of motor carrier vehicles in operation.
- b) Prescribed inspection report - the Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238) shall be used to record results of motor vehicle inspections conducted by Illinois State Police personnel.
- c) Motor Vehicles declared "Out-of-Service."
 - 1) Authorized Illinois State Police personnel shall declare and mark "out-of-service" any motor vehicle which, by reason of its mechanical condition or loading, would likely cause an accident or a breakdown. An "out-of-service" vehicle sticker shall be used to mark vehicles "out-of-service."
 - 2) No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked, "out-of-service" until all repairs required by the "out-of-service notice" have been satisfactorily completed. The term "operate" as used in this subsection shall include towing the vehicle, except that vehicles marked "out-of-service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and an "out-of-service" vehicle shall not be operated until such combination meets the performance requirements of the MCSR except for those conditions noted on the Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238).
 - 3) No person shall remove the "out-of-service vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out-of-service notice."

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- d) Motor Carrier's disposition.
 - 1) The driver of any motor vehicle receiving an inspection report shall deliver it to the motor carrier operating the vehicle upon his arrival at the next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the motor carrier operating the vehicle within 24 hours, the driver shall immediately mail the report to the motor carrier.
 - 2) Motor carriers shall examine the report. Violations or defects noted thereon shall be corrected.
 - 3) Within 15 days following the date of the inspection, randomly selected motor carriers shall certify that all violations noted have been corrected by completing the reverse side of the Illinois Commercial Driver/Vehicle Inspection Report (ISP 5-238) and returning it to the Illinois State Police Commercial Vehicle Enforcement Bureau's address indicated on the report.

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- 1) Heading of Part: Motor Carrier Safety Regulations: General
- 2) Code Citation: 92 Ill. Adm. Code 390
- 3) Section Numbers:
- | | |
|----------|-----------------|
| 390.1000 | Adopted Action: |
| 390.1010 | New Section |
| 390.1020 | New Section |
| 390.1030 | New Section |
| 390.2000 | New Section |
- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill.Rev.Stat.1989, ch. 95 1/2, pars, 18b-100 et seq.)
- 5) Effective date of rules: September 10, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference?
- Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: September 4, 1990
- 9) Notice of proposal published in Illinois Register:
- May 18, 1990, 14 Ill. Reg. 7452
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:
- The following changes were made pursuant to comments from the Administrative Code Division:
- The Department updated the Ill.Rev.Stat. citation to reflect the "1989" edition, and/or deleted the reference to P.A. 86-611 in this Part in the following locations:
- In Item #4 in the Notice of Adopted Rules;
In the first paragraph of Item #15 in the Notice of Adopted Rules;

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- In the Authority Note;
In the 4th and 5th lines of Section 390.1000; and
In the definitions of "Business District"; "Code"; and "Law" in Section 390.1020.
- In Item #15 of the Notice of Adopted Rules, the Department replaced, "92 Ill. Ad. Code," with "92 Ill. Adm. Code:" in three places.
 - The Department deleted all labeling in Section 390.1020, "Definitions."
 - The Department replaced "92 Ill. Adm. Code," with "92 Ill. Adm. Code:" in Section 390.2000(b)(3).
 - The Department made no changes in response to the Code Division's Comment #3 regarding moving "Hours of Service of Drivers" into its proper alphabetical sequence in Section 390.1020. This sentence is not a separate definition, but rather a continuation of the definition of "Principal Place of Business." "Hours of Service of Drivers" is set off in quotation marks because it is the proper title for 49 CFR 395.

The following changes were made pursuant to public comment:

- The Department has deleted Section 390.2010, "Exception From Hours-of-Service Requirements-Disasters," in its entirety.
 - The Department added a definition of, "Illinois State Police" to Section 390.1020 and changed all references from "State Police" to "Illinois State Police."
 - The Department has revised Section 390.1010(c).
- The following changes were made in agreement with the JCAR:
- The Department deleted, "other than an employee, who is employed by an employer and" from the definition of "Employee" in Section 390.1020.
 - The Department deleted, ", and which is not intrastate" from the definition of "interstate commerce" in Section 390.1020.

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The Department changed the incorporation by reference date from "February 15, 1990" to "October 1, 1989" in the last paragraph of the Summary and Purpose of Rules (Item #15) of the Notice of Adopted Rules and in Section 390.2000(a).

The Department changed the incorporation by reference date from "August 1, 1989" to "October 1, 1989" in Section 390.1020.

The Department added the date ", October 1, 1989" directly after 49 CFR 325 in Section 390.2000(b)(5).

The Department moved the apostrophe to the end of "vehicle's" in Section 390.1010(e)(3).

The Department removed the capitalization from "Federal" and "State" wherever they appear in Section 390.1010(f)(2).

The Department corrected the spelling of "entitites" in Section 390.1010(f)(2).

The Department corrected the spelling of "corposes" in Section 390.1010(f)(4).

The Department removed the capitalization from "State" in the definition of "Driving a commercial motor vehicle while under the influence of alcohol" in Section 390.1020.

The Department removed the capitalization from "State" in the definition of "employee" in Section 390.1020.

The Department removed the capitalization from "State" in the definition of "employer" in Section 390.1020.

The Department removed the capitalization from "State" in the definition of "Hazardous Waste" in Section 390.1020.

The Department changed the comma to a colon after "92 Ill. Adm. Code" in the definition of "Motor Carrier Safety Regulations" in Section 390.1020.

The Department removed the capitalization from "State" in the definition of "State" in Section 390.1020.

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12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules:

By this rulemaking, the Department is establishing the general application and general requirements of the Illinois Motor Carrier Safety Law (the Law) (Ill.Rev.Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.). This part also establishes definitions and information necessary to implement the provisions of the Law.

Section 390.1010 identifies the persons to whom 92 Ill. Adm. Code: Chapter I, Subchapter d applies, and identifies instances in which 92 Ill. Adm. Code: Chapter I, Subchapter d does not apply.

In Section 390.1020, the Department has assembled definitions necessary for an understanding of 92 Ill. Adm. Code: Chapter I, Subchapter d. These definitions have been adopted from 49 CFR 390.5 or Sections 1-101 et seq. of the Illinois Vehicle Code (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 1-101 et seq.) or Section 18b-101 of the Law where appropriate except for the following:

"Employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any State, any political subdivision of a State, or any agency established under a compact between States approved by the Congress of the United States.

"Motor Carrier Safety Regulations" (MCSR) means the requirements established in Parts 386, 390, 391, 392, 393, 395, 396 and 397 of 92 Ill. Adm. Code: Chapter I, Subchapter d. All parts referenced herein are adopted in this same issue of the Illinois Register.

"School Bus Operation" means the use of a school bus for the transportation of school children and school personnel to and from school and for sanctioned school functions when only intrastate transportation is involved.

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"Secretary" means the Secretary of the Illinois Department of Transportation.

At Section 390.1030, the Department is establishing the rules of construction used in the Federal Motor Carrier Safety Regulations found at 49 CFR 390.7.

At Section 390.2000, the Department is incorporating by reference 49 CFR 390, Subpart B as of October 1, 1989. This will provide consistency with other parts of the MCSR.

- 16) Information and questions regarding these adopted rules shall be directed to:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger of Inter-Agency Mail:

320 West Washington
Room 606
Springfield

The full text of the Adopted Rules begins on the next page.

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TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 390

MOTOR CARRIER SAFETY REGULATIONS: GENERAL

SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section
390.1000 Purpose
390.1010 General Applicability
390.1020 Definitions
390.1030 Rules of Construction

SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

Section
390.2000 Incorporation by Reference of 49 CFR 390, Subpart B

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.).

SOURCE: Adopted at 14 Ill. Reg. 15519, effective September 10, 1990

NOTE: Capitalization denotes statutory language.

SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section 390.1000 Purpose

This Part establishes general applicability, definitions, general requirements and information as they pertain to persons subject to the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.). The Motor Carrier Safety Regulations (MCSR) consist of 92 Ill. Adm. Code 386, 390, 391, 392, 393, 395, 396, and 397.

Section 390.1010 General Applicability

- a) All Parts of the MCSR except for "Driving and Parking" (92 Ill. Adm. Code 397) are applicable to:
- 1) All employers, employees and commercial motor vehicles which transport property or passengers

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in interstate commerce subject to applicable parts of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396 and 397); and

2) INTRASTATE CARRIERS, DRIVERS AND THE VEHICLES THEY OPERATE WHEN THE VEHICLES ARE REGISTERED FOR A GROSS WEIGHT OF 12,001 POUNDS OR MORE, ARE OPERATED FOR THE TRANSPORTATION OF PROPERTY AND USED IN THE FURTHERANCE OF ANY COMMERCIAL OR INDUSTRIAL ENTERPRISE, WHETHER FOR HIRE OR NOT-FOR-HIRE. (Section 18b-106 of the Law)

b) 92 Ill. Adm. Code 397 applies to any employer, employee or motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823) and to:

- 1) Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials; and
- 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.
- c) The provisions of 92 Ill. Adm. Code 397 do not apply to the transportation of hazardous materials cited in 92 Ill. Adm. Code 171.6, agricultural exception, when such commodities are transported from retailer to final agricultural end user, or between final end users from farm to farm in approved containers and in the amounts and manner specified.
- d) Nothing in the MCSR shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.
- e) The MCSR requires knowledge of and compliance with the following:
 - 1) Every employer shall be knowledgeable of and comply with all requirements contained in the MCSR which are applicable to that motor carrier's operations.
 - 2) Every driver and employee shall comply with all applicable requirements contained in the MCSR and shall be instructed accordingly.
 - 3) All motor vehicles' equipment and accessories required by the MCSR shall be maintained in compliance with all applicable performance and design criteria also set forth in the MCSR.
- f) Unless otherwise specifically provided, the requirements

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- 1) in the MCSR do not apply to:
 - 1) All school bus operations as defined in Section 390.1020;
 - 2) Transportation performed by the federal government, a state, or any political subdivision of a state, or an agency established under a compact between states that has been approved by the Congress of the United States. The accident reporting requirements of "Notification and Reporting of Accidents" (49 CFR 394), remain applicable to the entities identified in this subsection when engaged in the interstate charter transportation of passengers.
 - 3) The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise;
 - 4) The transportation of human corpses or sick and injured persons;
 - 5) The operation of fire trucks and rescue vehicles while involved in emergency and related operations; and
 - 6) The private transportation of passengers.

Section 390.1020 Definitions

The following definitions apply to all parts in the MCSR unless a specific Part expressly defines a term different than what is used below:

- "Alcohol concentration" (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 millimeters of blood or grams of alcohol per 210 liters of breath. "Federal Motor Carrier Safety Regulations: General" (49 CFR 390.5, October 1, 1989)
- "Bus" means any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs. (49 CFR 390.5, October 1, 1989)
- "BUSINESS DISTRICT" MEANS THE TERRITORY CONTIGUOUS TO AND INCLUDING A HIGHWAY WHEN WITHIN ANY 600 FEET ALONG SUCH HIGHWAY THERE ARE BUILDINGS IN USE FOR BUSINESS OR INDUSTRIAL PURPOSES, INCLUDING BUT NOT LIMITED TO, HOTELS, BANKS, OR OFFICE BUILDINGS WHICH OCCUPY AT LEAST 300 FEET OF FRONTAGE ON ONE SIDE OR 300 FEET COLLECTIVELY ON BOTH SIDES OF THE HIGHWAY. (Section 1-108 of

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the Illinois Vehicle Code (the Code)(Ill. Rev Stat. 1989, ch. 95 1/2, par. 1-108)).

"Charter transportation of passengers" means transportation, using a bus, of a group of persons who, pursuant to a common purpose, under a single contract, at a fixed charge for the vehicle, have acquired the exclusive use of the vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin. (49 CFR 390.5, October 1, 1989)

"Code" means the Illinois Vehicle Code (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 1-100 et seq.)

"COMMERCE" MEANS TRADE, COMMERCE OR TRANSPORTATION WITHIN THE STATE. (Section 18b-101(1) of the Law)

"Commercial Motor Vehicle (CMV)" means:

ALL VEHICLES OPERATED IN INTRASTATE TRANSPORTATION REGISTERED FOR A GROSS WEIGHT OF 12,001 POUNDS OR MORE, ARE OPERATED FOR THE TRANSPORTATION OF PROPERTY AND USED IN THE FURTHERANCE OF ANY COMMERCIAL OR INDUSTRIAL ENTERPRISE, WHETHER FOR-HIRE OR NOT-FOR-HIRE. (Section 18b-106 of the Law)

Any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when:

The vehicle has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds; or

The vehicle is designed to transport more than 15 passengers, including the driver; or

The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary of the United States Department of Transportation under the Hazardous Materials Transportation Act. (49 CFR 390.5, October 1, 1989)

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of

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guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated. (49 CFR 390.5, October 1, 1989)

"DEPARTMENT" MEANS THE ILLINOIS DEPARTMENT OF TRANSPORTATION. (Section 18b-106 of the Law)

"Driving a commercial motor vehicle while under the influence of alcohol" means committing any one or more of the following acts in a CMV: driving a CMV while the person's alcohol concentration is 0.04 percent or more; driving under the influence of alcohol, as prescribed by state law; or refusal to undergo such testing as is required by any state or jurisdiction in the enforcement of "Commercial Driver's License Standards; Requirements and Penalties" (49 CFR 383.51(b)(2)(i)(A) or (B)) or "Driving of Motor Vehicles" (49 CFR 392.5(a)(2)). (49 CFR 390.5, October 1, 1989)

"Driveaway-towaway operation" means any operation in which a motor vehicle constitutes the commodity being transported and one or more set of wheels of the vehicle being transported are on the surface of the roadway during transportation. (49 CFR 390.5, October 1, 1989)

"Driver" means any person who operates any commercial motor vehicle. (49 CFR 390.5, October 1, 1989)

"Employee" means:

A driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle);

A mechanic;

A freight handler; and

Any individual, who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any state, any political subdivision of a state, or any agency established under a compact between states and approved by the Congress of the United States who is acting within the course of such employment. (49 CFR 390.5, October 1, 1989)

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"Employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any state, any political subdivision of a state, or any agency established under a compact between states approved by the Congress of the United States.

"Exempt intracity zone" means the geographic area of a municipality or the commercial zone of that municipality described by the Interstate Commerce Commission (ICC) in "Commercial Zones" (49 CFR 1048), revised as of October 1, 1975. The descriptions are printed in Appendix F to the Motor Carrier Safety Regulations. A driver may be considered to operate a vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone. (49 CFR 390.5, October 1, 1989)

"Exempt motor carrier" means a person engaged in transportation exempt from economic regulation by the ICC under "Miscellaneous Motor Carrier Transportation Exemptions" (49 U.S.C. 10526). "Exempt motor carriers" are subject to the requirements set forth in the Motor Carrier Safety Regulations. (49 CFR 390.5, October 1, 1989)

"Farm-to-market agricultural transportation" means the operation of a motor vehicle controlled and operated by a farmer who:

Is a private motor carrier of property;
Is using the vehicle to transport agricultural products from a farm owned by the farmer, or to transport farm machinery or farm supplies to or from a farm owned by the farmer; and
Is not using the vehicle to transport hazardous materials of a type or quantity that require the vehicle to be placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823), October 1, 1989. (49 CFR 390.5, October 1, 1989)

"Farm vehicle driver" means a person who drives only a motor vehicle that is --

Controlled and operated by a farmer as a private motor carrier of property;
Being used to transport either --
Agricultural products, or
Farm machinery, farm supplies, or both, to or from a farm;

Not being used in the operation of a for-hire motor carrier;

Not carrying hazardous materials of a type or quantity that required the vehicle to be placarded in accordance with 49 CFR 177.823; and
Being used within 150 air-miles of the farmer's farm. (49 CFR 390.5, October 1, 1989)

"Farmer" means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which:

Are owned by that person; or
Are under the direct control of that person. (49 CFR 390.5, October 1, 1989)

"Federal Highway Administrator" means the chief executive of the Federal Highway Administration, an agency within the United States Department of Transportation. (49 CFR 390.5, October 1, 1989)

"FOR-HIRE" MEANS THE OPERATION OF A VEHICLE FOR COMPENSATION AND SUBJECT TO FEDERAL REGULATION BY THE INTERSTATE COMMERCE COMMISSION OR TO STATE REGULATION BY THE ILLINOIS COMMERCE COMMISSION (Section 1-124 of the Code).

"For-hire motor carrier" means a person engaged in the transportation of goods or passengers for compensation. (49 CFR 390.5, October 1, 1989)

"Gross Combination Weight Rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon. (49 CFR 390.5, October 1, 1989)

"Gross Vehicle Weight Rating (GVWR)" means the value

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specified by the manufacturer as the loaded weight of a single vehicle. (49 CFR 390.5, October 1, 1989)

"Hazardous material" means a substance or material which has been determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. (49 CFR 390.5, October 1, 1989)

"Hazardous substance" means a material, and its mixtures or solutions, that is identified in the "Hazardous Materials Table and Hazardous Materials Communications" (49 CFR 172.101) when offered for transportation in one package, or in one transport vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in "General Information, Regulations and Definitions" (49 CFR 171.8) based on the reportable quantity (RQ) specified for the materials listed in 49 CFR 172.101. (49 CFR 390.5, October 1, 1989)

"Hazardous waste" means any material that is subject to the Hazardous Waste Manifest requirements of the EPA specified in "Standards Applicable to Generators of Hazardous Waste" (40 CFR 262) or would be subject to these requirements absent an interim authorization to a State under "State Program Requirements" (40 CFR 123), Subpart F. (49 CFR 390.5, October 1, 1989)

"Illinois State Police" means any individual officer of the Illinois State Police.

"Intermittent, casual, or occasional driver" means a driver who in any period of 7 consecutive days is employed or used as a driver by more than a single motor carrier. The qualification of such a driver shall be determined and recorded in accordance with the provisions of 49 CFR 391.63 or 391.65, as applicable. (49 CFR 390.5, October 1, 1989)

"INTERSTATE COMMERCE" MEANS TRANSPORTATION BETWEEN TWO

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OR MORE STATES OR TRANSPORTATION ORIGINATING IN ONE STATE AND PASSING INTO OR THROUGH OTHER STATES FOR DELIVERY IN ANOTHER STATE. (Section 1-133 of the Code)

"Intrastate commerce" means any trade, traffic, or transportation in Illinois which is not described in the term "interstate commerce." (49 CFR 390.5, October 1, 1989)

"Law" means the Illinois Motor Carrier Safety Law. (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.)

"Motor carrier" means a for-hire motor carrier or a private motor carrier of property. The term "motor carrier" includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of the MCSR, the definition of "motor carrier" includes the terms "employer" and "exempt motor carrier." (49 CFR 390.5, October 1, 1989)

"Motor Carrier Safety Regulations (MCSR)" means the requirements established in Parts 386, 390, 391, 392, 393, 395, 396 and 397 (92 Ill. Adm. Code: Chapter 1, Subchapter d).

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Highway Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. (49 CFR 390.5, October 1, 1989)

"Operator" -- see driver.

"Other terms" -- any other term used in the MCSR is used

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in its commonly accepted meaning, except where such other term has been defined elsewhere in the MCSR. In that event, the definition therein given shall apply. (49 CFR 390.5, October 1, 1989)

"PERSON" MEANS ANY NATURAL PERSON OR INDIVIDUAL, GOVERNMENTAL BODY, FIRM, ASSOCIATION, PARTNERSHIP, CO-Partnership, JOINT VENTURE, COMPANY, CORPORATION, JOINT STOCK COMPANY, TRUST, ESTATE OR ANY OTHER LEGAL ENTITY OR THEIR LEGAL REPRESENTATIVE, AGENT OR ASSIGNS. (Section 18b-101(5) of the Law)

"Principal place of business" means a single location designated by the motor carrier, normally its headquarters, where records required by "Minimum Levels of Financial Responsibility for Motor Carriers" (49 CFR 387) and "Notification and Reporting of Accidents" (49 CFR 394) or "Qualification of Drivers" (49 CFR 391), "Hours of Service of Drivers" (49 CFR 395), and "Inspection, Repair and Maintenance" (49 CFR 396) will be maintained. Provisions in the MCSR are made for maintaining certain records at locations other than the principal place of business. (49 CFR 390.5, October 1, 1989)

"Private motor carrier of passengers" means a person who is engaged in an enterprise other than transportation, and provides transportation of passengers, by motor vehicle, that is within the scope of, and in the furtherance of that enterprise. (49 CFR 390.5, October 1, 1989)

"Private motor carrier of property" means a person who transports, by motor vehicle, property of which that person is the owner, lessee or bailee; such transportation being for the purpose of sale, lease, rent, bailment, or in the furtherance of any commercial enterprise other than transportation. (49 CFR 390.5, October 1, 1989)

"Regional Director" means the Regional Director, Office of Motor Carrier Safety, for a given geographical region of the United States. (49 CFR 390.5, October 1, 1989)

"Regularly employed driver" means a driver who, in any period of seven consecutive days, is employed or used as a driver solely by a single motor carrier. (49 CFR

390.5, October 1, 1989)

"Residential district" means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences. (49 CFR 390.5, October 1, 1989)

"School bus" means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary of the United States Department of Transportation determines is likely to be significantly used for the purpose of transporting preprimary, primary or secondary school students to such schools from home or from such schools to home. (49 CFR 390.5, October 1, 1989)

"School bus operation" means the use of a school bus to transport only school children and school personnel from home to school and from school to home and for intrastate sanctioned school functions.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Special agent" - See 49 CFR Appendix B to Subchapter B of Chapter III.

"State" means a state of the United States and the District of Columbia and includes a political subdivision of a state. (49 CFR 390.5, October 1, 1989)

"Trailer" includes:

"Full trailer" means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing unit. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer. (49 CFR 390.5, October 1, 1989)

"Pole trailer" means any motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing vehicle, for transporting

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long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections. (49 CFR 390.5, October 1, 1989)

"Semitrailer" means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing vehicle. (49 CFR 390.5, October 1, 1989)

"Truck" means any self-propelled motor vehicle except a truck tractor, designed and/or used for the transportation of property. (49 CFR 390.5, October 1, 1989)

"Truck tractor" means a self-propelled motor vehicle designed and/or used primarily for drawing other vehicles. (49 CFR 390.5, October 1, 1989)

"United States" means the 50 states and the District of Columbia. (49 CFR 390.5, October 1, 1989)

"US DOT" means the United States Department of Transportation.

Section 390.1030 Rules of Construction

- a) In the MCSR unless the context requires otherwise:
 - 1) Words imparting the singular include the plural;
 - 2) Words imparting the plural include the singular;
 - 3) Words imparting the masculine gender include the feminine; and
 - 4) Words imparting the present tense include the future tense. (49 CFR 390.7, October 1, 1989)
- b) In the MCSR:
 - 1) "Officer" includes any person authorized by law to perform the duties of the office;
 - 2) "Writing" includes printing and typewriting;
 - 3) "Shall" is used in an imperative sense;
 - 4) "Must" is used in an imperative sense;
 - 5) "Should" is used in a recommendatory sense;
 - 6) "May" is used in a permissive sense; and
 - 7) "Includes" is used as a word of inclusion, not limitation. (49 CFR 390.7, October 1, 1989)

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SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

Section 390.2000 Incorporation by Reference of 49 CFR 390, Subpart B

- a) 49 CFR 390, Subpart B is hereby incorporated by reference as that Subpart of the FMCSR was in effect on October 1, 1989, subject only to the exceptions in subsection (b). No later amendments to or editions of 49 CFR 390, Subpart B are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 390, Subpart B shall apply for the purposes of this Subpart.
 - 1) 49 CFR 390.9 is deleted and not incorporated.
 - 2) Any reference to "this Part" in the incorporated material shall mean 92 Ill. Adm. Code 390.
 - 3) Any reference to "this Chapter" or "this Subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.
 - 4) Any reference to a section in the incorporated material shall be read to refer to that Section in the MCSR.
 - 5) Any reference to "Part 325 of Subchapter A" shall be read to refer to "Compliance with Interstate Motor Carrier Noise Emission Standards." (49 CFR 325, October 1, 1989)
 - 6) 49 CFR 390.23 applies only to commercial motor vehicles engaged in interstate commerce.

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- 1) Heading of Part: Parts and Accessories Necessary for Safe Operation

2) Code Citation: 92 Ill. Adm. Code 393

3) Section Numbers: Adopted Action:

393.1000
393.2000

New Section
New Section

- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill.Rev.Stat.1989, ch. 95 1/2, pars. 18b-100 et seq.)

5) Effective date of rules: September 10, 1990

- 6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference?

Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.

8) Date filed in agency's principal office: September 4, 1990

9) Notice of proposal published in Illinois Register:

May 18, 1990, 14 Ill. Reg. 7468

- 10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version:

The following changes were made pursuant to comments from the Administrative Code Division:

The Department updated the Ill.Rev.Stat. citation to reflect the "1989" edition, and/or deleted the reference to P.A. 86-611 in this Part in the following locations:

In Item #4 in the Notice of Adopted Rules;
In the Authority Note in the Text;
In Section 393.2000(c)(1); and
In Section 393.2000(c)(2).

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In Section 393.2000(a), lines four and five, the Department replaced the word "were" with the word "was." The following changes were made pursuant to agreements with the JCAR:

The Department changed its incorporation by reference date from, "February 15, 1990" to "October 1, 1989" in Item #15 of the Notice and in Section 393.2000(a).

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules:

By adopting this rulemaking, the Department is prescribing requirements for the parts and accessories of commercial motor vehicles. The Department has incorporated by reference, "Parts and Accessories Necessary for Safe Operation" (49 CFR 393), as of October 1, 1989, with the following two exceptions:

1) In Section 393.2000(c)(1), the Department has adopted language as an exception to 49 CFR 393 that is consistent with P.A. 86-611, effective September 1, 1989, which amended the Illinois Motor Carrier Safety Law (the Law) (Ill.Rev.Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.)

2) The exception in Section 393.2000(c)(2) is based on statutory language found in the Law.

16) Information and questions regarding these adopted rules shall be directed to:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Department of Transportation
Commercial Vehicle Safety Section

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

The full text of the Adopted Rules begins on the next page:

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NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 393

PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Section

393.1000 General

393.2000 Incorporation by Reference of 49 CFR 393

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1989, ch. 95 1/2 pars. 18b-100 et seq.).

SOURCE: Adopted at 14 Ill. Reg. 15537, effective September 10, 1990

NOTE: Capitalization denotes statutory language.

Section 393.1000 General

This Part prescribes the requirements for parts and accessories necessary for safe operation of a commercial motor vehicle in Illinois.

Section 393.2000 Incorporation by Reference of 49 CFR 393

- a) "Parts and Accessories Necessary for Safe Operation" (49 CFR 393) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1989, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 393 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to, and deletions from 49 CFR 393 shall apply for purposes of this Part.
- 1) SECTION 393.93 SHALL NOT APPLY TO THOSE COMMERCIAL MOTOR VEHICLES ENGAGED IN INTRASTATE COMMERCE WHICH WERE MANUFACTURED BEFORE JUNE 30, 1972 (Section 18b-105(c)(1) of the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 18b-105(c)(1)).

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- 2) SECTION 393.86 SHALL NOT APPLY FOR THOSE VEHICLES REGISTERED AS FARM TRUCKS UNDER SECTION 3-815(c) OF THE ILLINOIS VEHICLE CODE (the Code) (Ill. Rev. Stat. 1989, ch. 95 1/2, par. 3-815(c)) AND UTILIZED IN INTRASTATE COMMERCE (Section 18b-105(c)(2) of the Law).

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- 1) Heading of Part: Procedures and Enforcement

2) Code Citation: 92 Ill. Adm. Code 386

- 3) Section Numbers:

Adopted Action:

386.1000	386.1010	386.1020	New Section
386.1030	386.1040	386.1050	New Section
386.1060	386.1070	386.1080	New Section
386.1090	386.1100	386.1110	New Section
386.1120	386.1130	386.1140	New Section
386.1150	386.1160	386.1170	New Section
386.1180	386.1190	386.1200	New Section

- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill.Rev.Stat.1989, ch. 95 1/2, pars. 18b-100 et seq.)

- 5) Effective date of rules: September 10, 1990

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rule contain incorporations by reference? No

- 8) Date filed in agency's principal office: September 4, 1990

- 9) Notice of proposal published in Illinois Register:

May 18, 1990, 14 Ill. Reg. 7472

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Differences between proposal and final version:

The following changes were made pursuant to comments from the Administrative Code Division:

- . The Department updated the Ill.Rev.Stat. citation to reflect the "1989" edition, and/or deleted the reference to P.A. 86-611 in the following locations:

In Item #4 of the Notice;

In the first paragraph of Item #15 in the Notice;

In the Authority Note; and

In the 4th and 5th lines of Section 386.1000.

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- The Department corrected the spelling of the word "Willful" in the Table of Contents for Section 386.1200 to match the Section heading in the text.
- The Department corrected the indent level for all definitions in Section 386.1010 by moving the text to the right 1/2 inch.
- The Department deleted the word "mere" from line 5 in Section 386.1060(c).

The following changes were made pursuant to public comment:

- The Department replaced the definition of "State Police" with "Illinois State Police" in Section 386.1010 and changed all references to read "Illinois State Police" throughout this part.
- The Section Heading for Section 386.1070 has been changed from "Imminent Hazard" to "Out of Service" and this Section has been revised to remove all references to imminent hazard.

The following changes were made in agreement with the JCAR:

- The Department has added definitions for: "Materially;" "Relevant;" and "Undue Delay" in Section 386.1010.
- The Department has revised Section 386.1030(a) to delete the reference to Secretary; to denote statutory language; and to change "will" to "shall."
- The Department has revised Section 386.1030(c)(2) by changing, "with some adult person of suitable age and discretion" to "with some competent adult person of legal age."
- The Department has changed "may" to "shall" in Section 386.1030(d).
- The Department has modified Section 386.1030(f) by: replacing "apply" with "send a written request"; deleting the phrase, "or if he is unavailable, to the Secretary;" deleting the phrase "The Secretary, or" from the last sentence; replacing "application" with "written request;" and replacing "may" with "shall".
- The Department has revised Sections 386.1030(f)(1)(2)

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- and (3) by adding clarification standards for quashing or modifying a subpoena and by changing "application" to "written request".

- The Department has changed "without delay" to "without undue delay" in Section 386.1060(a) and has denoted as statutory only that language which has been paraphrased from the statutes.

- The Department has revised Section 386.1060(d) to clarify the 24-hour limitation by adding "...24 clock hours after initiation, without the consent of the company, but in no event shall the inspection continue for more than 72 hours after initiation."

- The Department has changed "may" to "shall" in Section 386.1060(f).

- The Department has revised Section 386.1060(i) by inserting a "right to refuse" provision immediately following the phrase, "MOTOR VEHICLES IN ACCORDANCE WITH THIS SECTION."

- The Department has changed the first line of Section 386.1080 from "when any representative of the State of Illinois responsible for enforcing the MCSR..." to, "when any authorized representative of the Department, or the Illinois State Police, responsible for enforcing the MCSR..."

- The Department has deleted Section 386.1100 in its entirety and removed it from the Table of Contents page.

- The Department has revised the language in former Section 386.1100 and added it to Section 386.1120(a). Language in the first line of Section 386.1120(a) has also been revised to clarify when the Department shall begin civil penalty proceedings.

- The Department has revised Section 386.1130(b) by changing "may" to "shall" and by adding clarifying language regarding the 30-day extension.

- The Department has changed "may" to "shall" in the first line of Section 386.1130(d).

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The Department has revised Section 386.1140(b) by changing "may offer to compromise" to "may offer a compromise"; by deleting "for a specific amount by submitting a certified check or money order for that amount" and inserting in its place, ", for example, by offering a specific amount or a payment plan."

The Department has replaced "must" with "shall" in Section 386.1150(a).

The Department has replaced "may" with "shall" in Section 386.1150(c).

The Department has revised Section 386.1180 by: labeling the unlabeled paragraph as 386.1180(a); relabelling subsections (a) through (f) as (1) through (6); denoting 386.1180(a)(1) through (6) as statutory; adding the proper statutory citation; and inserting a new subsection 386.1180(b) which adds clarification as to the manner in which factors are considered for assessing a civil penalty.

The Department has inserted the following phrase, ", for clarification purposes," in Section 386.1190(b), immediately following "at the discretion of the Secretary" in the 3rd sentence in this subsection.

The Department has changed "may" to "shall" in Section 386.1200.

The Department has inserted a comma after "witness" in Section 386.1030(b).

The Department has inserted "or" after "driver" in Section 386.1070(b).

The Department has removed the hyphen from "respon-dent" in Section 386.1120(b)(2).

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

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15) Summary and purpose of rules:

By this rulemaking, the Department has established formal procedures for a civil penalty process for violations of the Motor Carrier Safety Law (the Law) (Ill.Rev.Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.). The procedures in this Part are based on criteria established by the General Assembly in the Law.

A respondent charged with violation of the Law is given the opportunity to meet with representatives of the Department for the purpose of resolving the alleged violation without undergoing a formal hearing. The respondent can request a formal hearing at any point in the process. This Part provides for practice procedures for the formal hearing, for the designation of a hearing officer ("Presiding Officer") by the Secretary to preside over the hearing, for the content of the Presiding Officer's decision, and for an appeal procedure of the Presiding Officer's decision to the Secretary.

Procedures for examining the records of motor carriers, for placing vehicles out-of-service, for the content and service of notices and pleadings and for requesting the issuance of a subpoena are also provided in this Part.

16) Information and questions regarding these adopted rules shall be directed to:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

The full text of the Adopted Rules begins on the next page:

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NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION
 CHAPTER I: DEPARTMENT OF TRANSPORTATION
 SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 386

PROCEDURES AND ENFORCEMENT

Section	Scope
386.1000	Definitions
386.1010	Service
386.1020	Subpoenas
386.1030	Responsibility for Enforcement
386.1040	Investigations
386.1050	Inspection of Records and Motor Vehicles
386.1060	Out of Service
386.1070	Record of Inspection
386.1080	Warning Letter
386.1090	Maximum Penalties
386.1100	Commencement of Civil Penalty Proceeding
386.1110	Reply
386.1120	Payment of Penalty
386.1130	Request for Hearing
386.1140	Hearing
386.1150	Presiding Officer's Decision
386.1160	Assessment Considerations
386.1170	Appeal
386.1180	Willful Violations
386.1190	
386.1200	

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.).

SOURCE: Adopted at 14 Ill. Reg. 15542, effective September 10, 1990

NOTE: Capitalization denotes statutory language.

Section 386.1000 Scope

This Part defines certain terms and prescribes procedures that are applicable to each proceeding described in this Part that are utilized by the Department in carrying out its duties under the Illinois Motor Carrier Safety Law (the Law) (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.) and describes the various enforcement authorities exercised by the

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Department and the associated sanctions, prescribes the procedures governing the exercise of those authorities and the imposing of those sanctions.

Section 386.1010 Definitions

As used in this Part:

"Department" means the Illinois Department of Transportation.

"Director" means the Director of the Division of Traffic Safety whose office is located at:

Illinois Department of Transportation
 2300 South Dirksen Parkway
 Springfield, Illinois 62764

"Illinois State Police" means any individual officer of the Illinois State Police.

"Materially" means anything which relates to any substantive issue that is of consequence to the determination of a proceeding.

"Relevant" means having any tendency to make the existence of any fact that is of consequence to the determination of the proceeding more probable or less probable than it would be without that information.

"Respondent" means a person upon whom the Department has served a Notice of Intent to Assess Civil Monetary Penalty or a Notice of Probable Violation.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Undue Delay" means delay which is unwarranted, unjustified, or improper.

Section 386.1020 Service

- a) Each order, notice, or warning letter required to be served under this Part shall be served personally or by certified mail.
- b) Service upon a person's authorized representative constitutes service upon that person.
- c) Service by certified mail is complete upon mailing. An official United States Postal Service receipt from the certified mailing constitutes prima facie evidence of service.

Section 386.1030 Subpoenas

a) The presiding officer, designated to preside over a hearing convened in accordance with Section 386.1150(b), SHALL ISSUE SUBPOENAS on his own initiative, or upon the request of any person participating in that proceeding. The presiding officer SHALL ISSUE SUBPOENAS on his own initiative when the presiding officer believes that the PRODUCTION OF RELEVANT DOCUMENTS or the appearance of a particular witness shall materially advance the proceeding and those documents or witnesses have not been subpoenaed by any other party to the proceeding. (Section 18b-102(b) of the Law)

b) A subpoena may require the attendance of a witness, or the production of relevant documentary or other tangible evidence in the possession or under the control of the person served, or both. Service of a subpoena upon the person named therein shall be made by:

- 1) delivering a copy of the subpoena to such person;
- 2) delivering a copy of a subpoena to a natural person by handing it to that person, leaving it at his or her office with the person in charge, leaving it at his dwelling place or usual place of abode with some competent adult person of legal age who resides therein; or
- 3) mailing it by certified mail to the person at the person's last known address.

d) When the person to be served is not a natural person, delivery of a copy of the subpoena shall be effected by:

- 1) handing it to a registered agent for service, or to any officer, director, or agent in charge of any office of the person; or
- 2) mailing it by certified mail to that representative at his last known address.

e) The original subpoena bearing a certificate of service shall be filed with the Department official having responsibility for the proceeding in connection with which the subpoena was issued.

f) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of such subpoena, send a written request to the presiding officer who issued the subpoena, to quash or modify the subpoena. The written request shall contain a brief statement of the reasons relied upon in support of the action sought therein. The presiding officer (as designated under Section 386.1160(a)) shall:

- 1) deny the written request;
- 2) quash or modify the subpoena if it is unreasonable, immaterial, irrelevant, or to prevent delay, expense,

3) harassment or oppression; or condition denial of the written request to quash or modify the subpoena upon the satisfaction of certain just and reasonable requirements to avoid delay, expense, harassment or oppression. The denial may be summary.

g) If there is a refusal to obey a subpoena served upon any person under the provisions of this Section, the Department may request the Attorney General to seek the aid of the Circuit Court or any court of competent jurisdiction in which the person is found, to compel that person, after notice, to appear and give testimony, or to appear and produce the subpoenaed documents before the Department, or both.

Section 386.1040 Responsibility for Enforcement

RESPONSIBILITY FOR ENFORCEMENT OF THIS PART IS EXERCISED BY:

- a) THE ILLINOIS DEPARTMENT OF TRANSPORTATION; AND
- b) THE ILLINOIS STATE POLICE (the State Police) (Section 18b-102 of the Law).

Section 386.1050 Investigations

a) General

THE DEPARTMENT MAY CONDUCT INVESTIGATIONS (Section 18b-102(b) of the Law) relating to compliance by any person with any provision of these Motor Carrier Safety Regulations (MCSR) (92 Ill. Adm. Code 386, 390, 391, 392, 393, 395, 396, and 397) and any order issued thereunder, or any court decree relating thereto.

b) Confidentiality

Information received in an investigation under this Section, including the identity of the person investigated and any other person who provides information during the investigation, shall remain confidential, but only to the extent that disclosure would:

- 1) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement agency;
- 2) interfere with pending administrative enforcement proceedings conducted by the Department;
- 3) deprive a person of a fair trial or an impartial hearing;
- 4) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;
- 5) disclose unique or specialized investigative techniques other than those generally used and known;
- 6) endanger the life or physical safety of law enforcement

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- personnel or any other person; or
- 7) obstruct an ongoing criminal investigation.

Section 386.1060 Inspection of Records and Motor Vehicles

- a) AUTHORIZED REPRESENTATIVES OF THE DEPARTMENT and the State Police, UPON PRESENTING CREDENTIALS, MAY ENTER A MOTOR CARRIER'S ESTABLISHED PLACE OF BUSINESS WITHOUT undue DELAY, INSPECT AND EXAMINE RECORDS OF MOTOR CARRIERS REQUIRED TO BE MAINTAINED UNDER THE MCSR TO DETERMINE COMPLIANCE WITH THE MCSR AND MAY ENTER A MOTOR CARRIER'S ESTABLISHED PLACE OF BUSINESS TO INSPECT AND EXAMINE THE MOTOR VEHICLES OF MOTOR CARRIERS SUBJECT TO THESE MCSR TO DETERMINE COMPLIANCE WITH THE MCSR. (Section 18b-102(c) of the Law)
- b) The motor carrier or a representative of the motor carrier shall be entitled to be present during an inspection conducted pursuant to this Section, however, the presence of the motor carrier or an authorized representative of the motor carrier is not a condition precedent to such an inspection.
- c) Inspection conducted, pursuant to this Section, may be initiated at any time that business is being conducted or work is being performed, whether or not open to the public or when the motor carrier or a representative of the motor carrier other than a custodian or watchman, is present. The fact that a motor carrier or representative of the motor carrier leaves the premises after an inspection has been initiated shall not require the termination of the inspection.
- d) Any inspection conducted pursuant to this Section shall not continue for more than 24 clock hours after initiation, without the consent of the company, but in no event shall the inspection continue for more than 72 hours after initiation.
- e) In the event information comes to the attention of the individuals conducting an inspection that may give rise to the necessity of obtaining a search warrant, and in the event steps are initiated for the procurement of a search warrant, the individuals conducting such inspection may take all necessary steps to secure the premises under inspection until the warrant application is acted upon by a judicial officer.
- f) No more than three inspections of a motor carrier shall be conducted pursuant to this Section within any six month period except pursuant to a search warrant.
- g) Notwithstanding this limitation, nothing in this Section shall be construed to limit the authority of the State Police or the Department to respond to public complaints of violations of the MCSR or to inspect a commercial motor vehicle, and records thereon, operating on the highways of Illinois. For the purpose

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of this Section, a public complaint is one in which the complainant identifies himself or herself and sets forth, in writing, the specific basis for their complaint against the motor carrier.

- h) Nothing in this Section shall be construed to limit the authority of individuals, pursuant to this Section, to conduct searches of motor carriers pursuant to an issued and authorized search warrant.

- i) Whenever any motor carrier who, having been informed BY A PERSON AUTHORIZED TO MAKE INSPECTIONS AND EXAMINE RECORDS under this Section that that person desires to INSPECT RECORDS AND THE MOTOR CARRIER'S MOTOR VEHICLES as authorized by this Section, refuses either to produce for that person records required to be kept by the MCSR or to permit such AUTHORIZED PERSON TO MAKE AN INSPECTION OF MOTOR VEHICLES IN ACCORDANCE WITH THIS SECTION, and having been advised of his right to refuse to produce records or to permit an inspection of motor vehicles at the time of the inspection, the inspection shall be terminated or the inspection confined to areas concerning which no objection is raised. The representative shall endeavor to ascertain the reason for such refusal and shall immediately report the matter to the Director. If the Director desires to have an inspection and examination conducted, the Director may refer the matter to the Department's Office of Chief Counsel to take appropriate action, including issuance of a search warrant, if necessary. (Section 18b-102(c) of the Law)

Section 386.1070 Out of Service

- a) Whenever it is determined that a motor vehicle is in such a condition as to likely cause an accident or a breakdown of the vehicle, the Illinois State Police shall order a vehicle or employee operating such vehicle out of service. On making such an order, no restrictions shall be imposed on the employee beyond that required to abate the hazard.
- b) Upon the issuance of an order under subsection (a), the driver or employee shall comply immediately with such order.
- c) On placing a vehicle out of service, the Illinois State Police shall prevent the further movement of the vehicle and shall tag the vehicle so as to place the vehicle out of service until such time as the imminent danger observed is abated.
- d) Whenever the State Police stops a vehicle and the driver or operator of the vehicle is able to properly abate the existing hazard, the vehicle shall be permitted to continue in service.

Section 386.1080 Record of Inspection

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When any authorized representative of the Department, or the Illinois State Police, responsible for enforcing the MCSR pursuant to Section 386.1040, has inspected driver records or a motor vehicle, the inspector shall provide to the driver or other representative of the carrier, a record of the inspection.

Section 386.1090 Warning Letter

- a) When the Department has reason to believe that a person is engaging in conduct which involves a violation of any provision of the MCSR, the Department may issue a warning letter which shall:
 - 1) advise the person of the time, place and circumstances of the apparent violation;
 - 2) advise the person that a subsequent inspection may be conducted to ascertain whether the violation has been corrected; and
 - 3) warn the person not to repeat the violation in the future.
- b) The warning letter shall be served in the manner prescribed in Section 386.1020.

Section 386.1110 Maximum Penalties

A person who commits an act that is a violation of any of the MCSR is liable for a civil penalty of not more than \$5,000 for each violation. When the violation is a continuing one, each day of the violation constitutes a separate offense.

Section 386.1120 Commencement of Civil Penalty Proceeding

- a) When the Department has reason to believe that a person has committed an act which is a violation of any provision of the MCSR or a settlement agreement, and having considered the nature, circumstances, extent and gravity of the violation, and with respect to a person believed to have committed such a violation, the degree of culpability and history of prior offenses or warning letters, the Department, by the Director or his authorized representative, shall begin a civil penalty proceeding by serving a Notice of Intent to Assess Civil Monetary Penalty, in accordance with Section 386.1020, on a person charging that person with having committed an act which is a violation of one or more provisions of these regulations or a settlement agreement.
- b) A Notice of Intent to Assess Civil Monetary Penalty issued under this section shall include:
 - 1) notice of the provision(s) of the MCSR or settlement agreement which the respondent is believed to have violated;

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- 2) a brief description of the manner in which the respondent is believed to have violated the MCSR or settlement agreement;
 - 3) notice of the maximum amount of civil penalty for which the respondent may be liable;
 - 4) notice of the amount of the civil penalty sought to be assessed by the Department;
 - 5) a description of the manner in which the respondent shall make payment in accordance with Section 386.1140 of any money to the State;
 - 6) a statement that the respondent may request a conference with the Department, by verbal or written request to the Director, to review and discuss the alleged violation and civil penalty, and of the procedures for requesting a conference; and
 - 7) a statement that if a settlement cannot be reached within 180 days, a Notice of Probable Violation will be served upon the respondent, and THE RESPONDENT WILL HAVE AN OPPORTUNITY FOR A HEARING AS PROVIDED BY SECTION 18b-107(b) OF THE LAW AND SECTION 386.1160.
- c) In the event that the Department and the respondent do not enter a settlement agreement following service of a Notice of Intent to Assess Civil Monetary Penalty, the Department by the Director shall serve a Notice of Probable Violation on the respondent.
- d) A Notice of Probable Violation issued under this section includes:
- 1) a statement of the provision(s) of the MCSR or of a settlement agreement which the respondent is believed to have violated;
 - 2) a statement of the factual allegations upon which the proposed civil penalty is being sought;
 - 3) notice of the maximum amount of civil penalty for which the respondent may be liable;
 - 4) notice of the amount of the civil penalty sought to be assessed by the Department;
 - 5) a description of the manner in which the respondent shall make payment of any money to the State in accordance with Section 386.1140;
 - 6) a statement of respondent's right to request a hearing and the procedures for requesting a hearing in accordance with Section 386.1150; and
 - 7) a statement of respondent's right to appear at the hearing and to present relevant written or oral explanations, information and materials in answer to the allegations or in mitigation of the penalty.
- e) A settlement of a civil penalty proceeding may be effectuated at any time upon agreement of the parties, shall be reduced to

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writing by the Department and signed by the parties. Terms of the settlement may include a reduction in the amount of the proposed civil penalty, and may include training and procedural requirements agreed upon by the respondent and Department. Training and procedural requirements may be agreed upon to increase awareness of and compliance with the MCSR.

Section 386.1130 Reply

- a) Within 30 days of the service of a Notice of Probable Violation issued under Section 386.1020, the respondent may:
 - 1) pay the preliminary assessment as provided in Section 386.1140 and thereby close the case; or
 - 2) request a hearing as provided in Section 390.1150.
- b) The Director shall extend the 30-day period, for a maximum of 30 days, upon a request to do so by the respondent within the 30-day period.
- c) Failure of the respondent to reply by taking one of the two actions described in subsection (a) within the period provided constitutes a waiver of his right to appear and contest the allegations, and authorizes the Secretary, without further notice to the respondent, to find the facts to be as alleged in the Notice of Probable Violation and order the assessment of an appropriate civil penalty. The assessment shall be the same as the assessment stated in the Notice when the respondent fails to reply.

- d) An order entered against a respondent who fails to reply shall be vacated by the Secretary upon good cause shown in a written motion filed within 30 days of service of the order. A motion to vacate must be accompanied by a request for hearing meeting the requirements of Section 386.1150. No further extension of this time for filing shall be granted.

Section 386.1140 Payment of Penalty

- a) Payment of a civil penalty should be made by certified check or money order payable to the "Treasurer of the State of Illinois" and sent to:

Director, Division of Traffic Safety
Illinois Department of Transportation
2300 South Dirksen Parkway
Springfield, Illinois 62764.
- b) At any time after an order assessing a civil penalty is referred to the Attorney General for collection, the respondent may offer a compromise, for example, by offering a specific amount or a payment plan to the Director who, with the consent of the

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Attorney General, may accept or reject it. If it is accepted, the respondent is notified in writing by the Director that the acceptance is in full settlement of the civil penalty for the violation.

Section 386.1150 Request for Hearing

- a) If a respondent elects to request a hearing, he shall submit a written request to the Director. The request shall:
 - 1) state the name and address of the respondent and of the person signing the request, if different from the respondent;
 - 2) state with respect to each allegation whether it is admitted or denied; and
 - 3) state the issues to be raised by the respondent at the hearing.
- b) After receiving a request for hearing which complies with the requirements of subsection (a), the Director shall request the Secretary to appoint a presiding officer. The designated presiding officer schedules a hearing for the earliest practicable date.
- c) The presiding officer shall grant extensions of the time of the commencement of the hearing for good cause shown.

Section 386.1160 Hearing

- a) When a hearing is requested under Section 386.1150 the Secretary shall appoint a presiding officer to convene and preside over the hearing. To the extent practicable, the hearing will be held near the place where the alleged violation occurred or at a place convenient to the respondent, provided that all such hearings shall be in Illinois. Testimony by witness shall be given under oath and the hearing shall be recorded verbatim.
- b) The presiding officer may:
 - 1) administer oaths and affirmations;
 - 2) issue subpoenas as provided by Section 386.1030;
 - 3) adopt procedures, including the submission of evidence in written form;
 - 4) take or cause depositions to be taken;
 - 5) rule on offers of proof and receive relevant evidence;
 - 6) examine witnesses at the hearing;
 - 7) convene, recess, reconvene, adjourn and otherwise regulate the course of the hearing;
 - 8) hold conferences for settlement, simplification of the issues or any other proper purpose; and
 - 9) take any other action authorized by or consistent with the

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provisions of this Part pertaining to civil penalties and which may expedite the hearing or aid in the disposition of an issue raised therein.

- c) The Director, or his representative, has the burden of proving the facts alleged in the Notice of Probable Violation as may be necessary to fully inform the presiding officer as to the matter concerned.
- d) The respondent may appear and be heard on his own behalf or through counsel of his choice. The respondent or his counsel may offer relevant information including testimony which he believes should be considered in defense of the allegations or which may bear on the penalty to be assessed and conduct such cross-examination as may be required for a full disclosure of the facts.

Section 386.1170 Presiding Officer's Decision

- a) After consideration of the evidence of record, the presiding officer may dismiss the Notice of Probable Violation in whole or in part. If he does not dismiss it in whole, he will issue and serve on the respondent an order assessing a civil penalty. The order will include a statement of findings and conclusions as well as the reasons therefor on all material issues of fact, law, and discretion.
- b) If, within 20 days after service of an order assessing a civil penalty, the respondent does not pay the civil penalty or file an appeal as provided in Section 386.1190, the case shall be referred to the Illinois Attorney General with a request that an action to collect the penalty be brought in the appropriate Circuit Court.

Section 386.1180 Assessment Considerations

- a) IN ASSESSING A CIVIL PENALTY UNDER THE PROVISIONS OF THIS PART, THE ASSESSMENT IS MADE ONLY AFTER CONSIDERING:
 - 1) THE NATURE AND CIRCUMSTANCES OF THE VIOLATION;
 - 2) THE EXTENT AND GRAVITY OF THE VIOLATION;
 - 3) THE DEGREE OF THE RESPONDENT'S CULPABILITY;
 - 4) THE RESPONDENT'S HISTORY OF PRIOR OFFENSES;
 - 5) THE RESPONDENT'S ABILITY TO PAY; AND
 - 6) THE EFFECT ON THE RESPONDENT'S ABILITY TO CONTINUE IN BUSINESS. (Section 18b-107(b) of the Law)
- b) The manner in which these factors are considered by the Department is that the facts gathered by the Department, as well as the facts and arguments obtained from the respondent during the informal conference process, are weighed and considered by

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the department in determining or revising the assessed penalty in light of the factors stated in subsections (a)(1) through (6). The respondent may request a formal hearing, in accordance with Section 386.1150, to present evidence to the presiding officer, who shall weigh all of the relevant evidence presented in light of the factors stated in this Section.

Section 386.1190 Appeal

- a) Orders of dismissal and orders assessing civil penalties may be appealed to the Secretary. An appeal must be filed within 20 days of service of the presiding officer's order.
- b) The decision of the Secretary on appeal shall be made on the record of the hearing, including all pleadings and the decision of the officer who presided at the hearing. No new or additional evidence shall be considered by the Secretary without a positive showing by the party presenting such evidence that the evidence was not available or, through due diligence, could not have been made available at the hearing. At the discretion of the Secretary, for clarification purposes, and upon reasonable notice of the parties, oral argument may be had on appeal. Any party requesting oral argument must detail in his petition for appeal the reasons for the request for argument.
- c) If the Secretary affirms the assessment and the respondent does not pay the civil penalty within 35 days after service of the Secretary's decision on appeal and no complaint for administrative review has been filed, the case shall be referred to the Attorney General with a request that an action to collect the penalty be brought in the appropriate Circuit Court.
- d) Petition for appeal shall detail the assailed findings and be confined to factual and legal issues which are essential to the ultimate and just determination of the proceeding. Petitions shall not exceed 10 pages in length, excluding a separate preface and summary of argument which shall not exceed three pages. A reply to the petition, if any, shall be filed within 20 days of receipt of the petition for appeal and shall meet requirements as to length and format.
- e) The filing of the petition shall stay the effect of the prior decision, order or requirement pending the determination of the appeal.

Section 386.1200 Willful Violations

WHENEVER IT APPEARS TO THE DEPARTMENT THAT A PERSON HAS ENGAGED OR IS ENGAGED IN ANY ACT OR PRACTICE CONSTITUTING A WILLFUL VIOLATION OF ANY PROVISION OF THE MCSR OR OF ANY SETTLEMENT AGREEMENT OR ORDER ISSUED

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THEREUNDER, THE SECRETARY SHALL REQUEST THE ILLINOIS ATTORNEY GENERAL OR STATE'S ATTORNEY TO BRING AN ACTION IN THE APPROPRIATE CIRCUIT COURT FOR SUCH RELIEF AS IS AUTHORIZED BY THE LAW. (Section 18b-108 of the Law)

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- 1) Heading of Part: Qualification of Drivers
- 2) Code Citation: 92 Ill. Adm. Code 391
- 3) Section Numbers: Adopted Action:
 391.1000 New Section
 391.2000 New Section
- 4) Statutory Authority: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill.Rev.Stat.1989, ch. 95 1/2, pars. 18b-100 et seq.)
- 5) Effective date of rules: September 10, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference?
 Yes, these conform to Section 6.02(a) of the Illinois Administrative Procedure Act.
- 8) Date filed in agency's principal office: September 4, 1990
- 9) Notice of proposal published in Illinois Register:
 May 18, 1990, 14 Ill. Reg. 7487

- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:

The following changes were made pursuant to comments from the Administrative Code Division:

. The Department updated the Ill.Rev.Stat. citation to reflect the "1989" edition, and/or deleted the reference to P.A. 86-611 in this Part in the following locations:

In Item #4 in the Notice of Adopted Rules; and
 In the Authority Note.

. In Section 391.2000(a), line four, the Department replaced the word "were" with the word "was."

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In Section 391.2000(c)(6)(C), the Department replaced, "92 Ill. Adm. Code," with, "92 Ill. Adm. Code:"

The Department merged the unlabeled paragraph following Section 391.2000(c)(13) with Section 391.2000(c)(13) and moved the subsection labels (A), (B), and (C), to the left 1/2 inch.

The following change was made pursuant to public comment:

The Department replaced "State Police" with "Illinois State Police" throughout this Part.

The following changes were made pursuant to agreements with the JCAR:

The Department revised its incorporation by reference language in the Summary and Purpose of Rules (Item #15) of the Notice to reflect the "October 1, 1989" CFR date and deleted the reference to "February 15, 1990." "FHWA Docket MC-116 [54 FR 39546, September 27, 1989]" has been deleted from the Notice because this Docket Number is included in the October 1, 1989 CFR.

The Department replaced "...federal regulations adopted between September 1, 1989 and February 15, 1990" with, "...federal regulations adopted between October 1, 1989 and February 1, 1990..." in the last paragraph of Item #15, Summary and Purpose of Rules, in the Notice of Adopted Rules.

The Department changed "Act" to "Law" in the Summary and Purpose (Item #15) of the Notice of Adopted Rules.

The Department changed the incorporation by reference date from "February 15, 1990" to "October 1, 1989, as amended at 54 FR 40782, October 3, 1989; as amended at 54 FR 46616, November 6, 1989; as amended at 55 FR 3546, February 1, 1990" in Section 391.2000(a).

The Department added a definition of "reasonable cause" at the end of Section 391.2000(c)(13)(C) which was taken from 49 CFR 391.85 of the FMCSR.

The Department added a comma after Subpart H in Section 391.2000(c)(7).

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12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.

13) Will this rule replace an Emergency Rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of rules:

Public Act 86-611 became effective on September 1, 1989 which amended the Illinois Motor Carrier Safety Law (Law) (Ill.Rev.Stat.1989, ch. 95 1/2, pars, 18b-100 et seq.). Pertinent provisions of the Law include:

The incorporation by reference of certain parts of Title 49 of the Code of Federal Regulations (49 CFR) applicable to all carriers, drivers or vehicles subject to the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397);

The conditions under which the incorporated material of 49 CFR applies to carriers, drivers and vehicles engaged in intrastate transportation and specific exceptions applicable to intrastate commerce;

The authority of the Illinois Department of Transportation (the Department) to adopt rules to carry out the provisions of the Law.

By adopting this rulemaking, the Department is satisfying the legislative mandates of the Law by establishing rules that are necessary to carry out the provisions of the Law and by incorporating material by reference in order to ensure that the Illinois Motor Carrier Safety Regulations (MCSRs) are identical in substance to the FMCSRs.

"Qualification of Drivers" (49 CFR 391.2(c)) contains language that applies only to interstate transportation. Language established in Section 391.100(b), the exception for farm vehicle operators engaged in intrastate transportation, is expressed in terms consistent with the Law.

Sections 391.2000(c)(1) and (c)(2) establish regulatory

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and February 1, 1990 indicates that there are certain changes made by US DOT that affect portions of the regulations incorporated by reference. This Part does have the effect of making limited substantive changes in the regulations to bring Part 391 in line with the federal regulations. The following is a summary of the changes in the FMCSR which are included in this Part.

This Part incorporates changes to 49 CFR 391 as explained by US DOT in rulemaking dockets printed in the Federal Register.

FHWA Docket MC-88-14 [54 FR 40782 (October 3, 1989)]
FHWA Docket MC-116 [54 FR 46616 (November 6, 1989)]
FHWA Docket MC-116 [54 FR 3546 (February 1, 1990)]

Docket MC-88-14 (October 3, 1989) - established a change to 49 CFR 391.15(c)(2)(iv) that amended language related to driving offenses that could result in disqualification of drivers. In this amendment, the disqualifying offenses were changed from "leaving the scene of an accident which resulted in injury or death" to "leaving the scene of an accident while operating a commercial motor vehicle."

Docket MC-116 (November 6, 1989) - stated US DOT's policy regarding implementation of controlled substance testing requirements for motor carriers in view of a preliminary injunction enjoining FHWA from implementing random and certain mandatory post-accident testing programs for commercial vehicle operators. In this docket, FHWA has provided notice that requirements for random and certain mandatory post-accident testing have been deferred until further notice. The notice does emphasize that interstate carriers must implement pre-employment, periodic, reasonable cause and unenjoined mandatory post-accident testing, as required.

The Department does not consider that deferral of requirements is in keeping with good administrative procedures and has, therefore, provided appropriate rulemakings to delete random and mandatory post-accident testing.

In Section 391.2000(c)(7) and (9), the Department has deleted references to random testing, and, in Sections 391.2000(c)(11) and 391.2000(c)(12), the Department has eliminated the requirement for random testing as a part of a controlled substance testing program.

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language to incorporate statutory provisions contained in the Law.

Section 391.2000(c)(3) provides for modification of the certificate of the medical examiner in those cases where the operator is qualified for the operation of a motor vehicle in intrastate transportation only because of the application of the exceptions identified in Section 391.2000(c)(2).

To carry out the provisions of the Law, it is necessary to establish rules that clarify the application of "Controlled Substance Testing" 49 CFR 391, Subpart H. This provision of the FMCSR was included in the Law. However, the wording of the Law lacks sufficient definition to permit its application in intrastate transportation. Therefore, the Department, in Section 391.2000(c)(6), has modified the definition of "Commercial Motor Vehicle" to include identification of vehicles used in intrastate transportation that are subject to 49 CFR 391, Subpart H. In Section 391.2000(c)(5), the Department has removed any ambiguity in the FMCSR as to persons subject to the provisions of 49 CFR 391, Subpart H.

In Section 391.2000(c)(8), the Department establishes the requirement that its authorized representatives be permitted to examine all records relating to the administration and results of controlled substance testing.

In Section 391.2000(c)(10), the Department establishes a schedule for motor carriers and operators engaged in intrastate commerce to implement a controlled substance testing program. This Part requires motor carriers who are engaged in interstate transportation to comply with the schedule in 49 CFR 391.93 and to include any intrastate operators, required to be tested, in their established program not later than December 21, 1990.

In Section 391.2000(c)(10)(D), the Department provides that motor carriers and drivers who operate commercial motor vehicles only in intrastate commerce shall comply with controlled substance testing requirements effective December 21, 1990.

The Department incorporates by reference 49 CFR 391, with certain cited exceptions, as of October 1, 1989. A review of the federal regulations adopted between October 1, 1989

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In section 391.2000(c)(13), the Department has eliminated the requirement for mandatory post-accident testing but has substituted "for cause" post-accident testing.

Docket MC-116 (February 1, 1990) - amended the requirements for pre-employment and post-accident testing. It also sets forth interpretations and makes editorial changes and technical amendments to the final rule on controlled substance testing. The amendments were intended to make the provisions of the rule easier to implement, clearer to understand and more effective.

- 16) Information and questions regarding these adopted rules shall be directed to:

By U.S. Mail:

Mr. Tom Crawford, Manager
Regulations and Training Unit
Illinois Department of Transportation
Commercial Vehicle Safety Section
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-3064

By Messenger or Inter-Agency Mail:

320 West Washington
Room 606
Springfield

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

PART 391
QUALIFICATION OF DRIVERS

Section
391.1000 General
391.2000 Incorporation by Reference of 49 CFR 391

AUTHORITY: Implementing Sections 18b-100 et seq. and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law (Ill. Rev. Stat. 1989, ch. 95 1/2, pars. 18b-100 et seq.).

SOURCE: Adopted at 14 Ill. Reg. 15560, effective September 10, 1990

Section 391.1000 General

- a) This Part establishes the minimum qualifications for persons who drive commercial motor vehicles.
- b) This Part does not apply to a farm vehicle driver, engaged in intrastate commerce, except a farm vehicle driver who drives an articulated (combination) vehicle that is registered for a gross weight of 12,001 pounds or more. (For limited exemptions for farm vehicle drivers of heavier articulated vehicles, see "Qualification of Drivers" (49 CFR 391.67).)

Section 391.2000 Incorporation by Reference of 49 CFR 391

- a) The Department hereby incorporates 49 CFR 391 by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 390, 391, 392, 393, 395, 396, and 397) that was in effect on October 1, 1989, as amended at 54 FR 40782, October 3, 1989; as amended at 54 FR 46616, November 6, 1989; as amended at 55 FR 3546, February 1, 1990, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 391 are incorporated.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR 391.
- c) The following interpretations of, additions to and deletions from 49 CFR 391 shall apply for purposes of this Part.

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- B) The vehicle is designed to transport more than 15 passengers, including the driver; or
- C) The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the provisions of the Illinois Hazardous Materials Transportation Regulations (92 Ill. Adm. Code: Chapter I, Subchapter c).
- 7) Section 391.87(b)(2) is not incorporated and the following substituted therefor:
A motor carrier shall notify:
A driver of the results of a periodic or post-accident controlled substance test conducted under 49 CFR, Subpart H, provided the results were positive. The driver will also be advised of what drug was discovered.
- 8) Section 391.87(f) is not incorporated and the following substituted therefor:
A motor carrier shall produce upon demand and shall permit the Illinois Department of Transportation or Administrator of the US DOT to examine all records related to the administration and results of controlled substance testing performed under this Part.
- 9) Section 391.87(g)(2) is not incorporated and the following substituted therefor:
The summary shall include at a minimum:
The number of controlled substance tests administered in each category (i.e., prequalification, periodic and reasonable cause).
- 10) The schedule established in Sections 391.93(b) and (c) for implementation of a controlled substance testing program is modified as follows:
A) The provisions of Section 391.93(b) apply only to motor carriers and operators of commercial motor vehicles engaged in interstate commerce.
B) The provisions of Section 391.93(c) apply only to motor carriers and operators of commercial vehicles engaged in interstate commerce.
C) Motor carriers subject to the provisions of Sections 391.93(b) and (c) shall include any driver who operates a commercial motor vehicle in intrastate commerce in the carrier's controlled substance testing

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- 1) Section 391.11(b)(1) does not apply to the operator of a commercial motor vehicle used in intrastate commerce.
- 2) Sections 391.41(b)(3) and (b)(10) do not apply to the operator of a commercial motor vehicle used in intrastate transportation, unless such driver has a record of accidents which would indicate a lack of ability to operate a vehicle in a safe manner, provided the operator, immediately prior to July 29, 1986, was eligible and licensed to operate a commercial motor vehicle; was engaged in operating such vehicle; became disqualified through the adoption of 49 CFR 391 on July 29, 1986, by reason of the application of sections 391.41(b)(3) or (b)(10) with respect to physical conditions existing at that time.
- 3) Section 391.43 is amended to add paragraph 391.43(f)(4) which reads as follows:
If a medical examiner determines that the driver is qualified to drive only in intrastate transportation due to the application of the provisions of Section 391.200(c)(2) above, the following shall appear on the medical examiner's certificate: "Qualified only for intrastate transportation in Illinois."
- 4) Section 391.69 is deleted and not incorporated.
- 5) Section 391.83(a) is modified to cause 49 CFR 391, Subpart H to apply to motor carriers and persons who operate a commercial motor vehicle, as defined in subsection (c)(6) in either interstate or intrastate commerce.
- 6) For the purposes of the application of 49 CFR 391, Subpart H, the definition of "Commercial Motor Vehicle" in Section 391.85 is not incorporated and the following definition is provided:
"Commercial Motor Vehicle" means any vehicle operated in intrastate commerce for the transportation of property in any commercial enterprise, for-hire or not-for-hire, with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more; or any self-propelled or towed vehicle used on public highways in interstate commerce to transport passengers or property when:
A) The vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds; or

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program not later than December 21, 1990.

- (49 CFR 391.93)
 Part 39f, Subpart H shall apply to motor carriers and drivers who operate commercial motor vehicles only in intrastate commerce effective December 21, 1990. (49 CFR 391.93)
- 11) Section 391.109 is deleted and not incorporated.
 (54 FR 46616, effective November 6, 1989)
- 12) Section 391.111 is deleted and not incorporated.
 (54 FR 46616, effective November 6, 1989)
- 13) Section 391.113(a) is not incorporated and the following substituted therefor: A motor carrier shall require a driver to be tested for the use of controlled substances as soon as possible after a reportable accident but in no case later than 32 hours after the accident when:
- There is any reasonable suspicion of drug usage;
 - There is any reasonable cause to believe a driver has been operating a vehicle under the influence of drugs; or
 - There is reasonable cause to believe the driver was at fault in the accident and that drug usage may have been a factor. (Section 391.85 of the FNCSS defines reasonable cause to mean that the motor carrier believes the actions or appearance or conduct of a commercial motor vehicle driver on duty are indicative of the use of a controlled substance.)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) The Heading of the Part: Pay Plan
- 2) The Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: Emergency Action:
 310. Appendix C Amended
- 4) The specific statutory citation upon which the rule is based and authorized:
 Illinois Revised Statutes 1987, ch. 127, par. 63b108a(2)
- 5) The effective date of the rule: September 11, 1990
- 6) If this emergency rule is to expire before the end of the 150 days period, please specify the date:
 The emergency amendment will extend to the full 150 days.
- 7) Date filed in Agency's principle office: September 11, 1990
- 8) The reason for the emergency:
 This emergency filing is necessary to implement Pay Plan changes to the Physician Administrator Rates and Medical Facilities Administrator Rates schedule to be effective August 16, 1990.
 The Medical Facilities Administrator III's maximum salary is being upgraded from \$10,222 to \$10,462. The additional titles of Medical Facilities Administrator IV and V are being included to accommodate the position of the head of clinical and medical services. The incumbent of above position will serve in the higher title when the Director of the Department of Mental Health and Developmental Disabilities does not possess a doctorate degree in psychiatry. This modification will allow the agency to better meet the directives of the Illinois Revised Statutes, Chapter 127, par. 8, section 7.07 and 7.07(a).
- 9) A Complete Description of the Subjects and Issues Involved:
 In Section 310. Appendix C, Physician Administrator Rates and Medical Facilities Administrator Rates Schedule, the Medical Facilities Administrator III's maximum salary is being upgraded from \$10,222 to \$10,462.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

Additionally, the titles of Medical Facilities Administrator IV and V are being included to accommodate a position for the head of clinical and medical functions in the Department of Mental Health and Developmental Disabilities. The incumbent will be serving in the higher capacity of the Medical Facilities Administrator V when the director of the Department of Mental Health and Developmental Disabilities does not possess a doctorate degree in psychiatry. The monthly compensation for the Physician Administrator IV and V should be established at \$7,789 - 10,584, and \$7,914 - 10,708, respectively.

10) Are there any proposed amendments pending to this part? Yes

Section Number	Proposed Action	Ill. Reg. Citation
310.230	Amended	14 Ill. Reg. 7675 (May 25, 1990)
310.280	Amended	14 Ill. Reg. 7675 (May 25, 1990)
310. App. A, Table A	Amended	14 Ill. Reg. 7675 (May 25, 1990)
310.280	Amended	14 Ill. Reg. 10189 (June 29, 1990)
310.290	Amended	14 Ill. Reg. 10189 (June 29, 1990)
310. App. A, Table I	Amended	14 Ill. Reg. 10189 (June 29, 1990)
310. App. A, Table O	Amended	14 Ill. Reg. 10189 (June 29, 1990)
310. App. A, Table P	Amended	14 Ill. Reg. 10189 (June 29, 1990)

11) Statement of Statewide Policy Objectives:

This rulemaking does not affect local government units.

12) The name, address and telephone number of the person to whom information and questions regarding this adopted rule shall be directed to:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706

Telephone: (217) 782-5601

The full text of the Emergency Rule is as follows:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	Policy and Responsibilities
310.20	Jurisdiction
310.30	Pay Schedules
310.40	Definitions
310.50	Conversion of Base Salary to Pay Period Units
310.60	Conversion of Base Salary to Daily or Hourly Equivalents
310.70	Increases in Pay
310.80	Decreases in Pay
310.90	Other Pay Provisions
310.100	Implementation of Pay Plan Changes, Effective July 1, 1990
310.110	Interpretation and Application of Pay Plan
310.120	Effective Date
310.130	Reinstitution of Within Grade Salary Increases
310.140	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)
310.150	

SUBPART B: SCHEDULE OF RATES

Section	Introduction
310.205	Prevailing Rate
310.210	Negotiated Rate
310.220	Part-Time Daily or Hourly Special Services Rate
310.230	Hourly Rate
310.240	Member, Patient and Inmate Rate
310.250	Trainee Rate
310.260	Legislated and Contracted Rate
310.270	Designated Rate
310.280	Out-of-State or Foreign Service Rate
310.290	Education Rate
310.300	Physician Specialist Rate
310.310	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.320	Excluded Classes Rate (Repealed)
310.330	

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SUBPART C: MERIT COMPENSATION SYSTEM

Section	Jurisdiction
310.410	Objectives
310.420	Responsibilities
310.430	Merit Compensation Salary Schedule
310.440	Procedures for Determining Annual Merit Increases
310.450	Intermittent Merit Increase
310.455	Merit Zone
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 1991
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A Negotiated Rates of Pay

TABLE A	HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE B	HR-200 (Department of Labor - Chicago, Illinois - SEIU)
TABLE C	RC-069 (Firefighters, AFSOME)
TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, ISEA)
TABLE H	RC-006 (Corrections Employees, AFSOME)
TABLE I	RC-009 (Institutional Employees, AFSOME)
TABLE J	RC-014 (Clerical Employees, AFSOME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	VR-004 (Illinois State Treasurer's Office Employees, Teamsters and IFT)
TABLE M	RC-027 (Educators, AFSOME) (Repealed)
TABLE N	RC-027 (Physician Rates, AFSOME) (Repealed)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSOME)
TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, ISEA)
TABLE Q	RC-033 (Meat Inspectors, ISEA)
TABLE R	RC-042 (Residual Maintenance Workers, AFSOME)
TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFT)

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TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSOME)
TABLE X	RC-063 (Professional Employees, AFSOME)
TABLE Y	RC-063 (Educators, AFSOME)
TABLE Z	RC-063 (Physicians, AFSOME)
APPENDIX B	Schedule of Salary Grades - Monthly and Annual Rates of Pay for Fiscal Year 1991
APPENDIX C	Physician Administrator Rates and Medical Facilities Administrator Rates for Fiscal Year 1991
EMERGENCY	Merit Compensation System Salary Schedule for Fiscal Year 1991
APPENDIX D	Teaching Salary Schedule (Repealed)
APPENDIX E	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX F	

AUTHORITY: Implementing and authorized by Section 8a(2) of the Personnel Code (Ill. Rev. Stat. 1989, ch. 127, par. 63b108a(2)).

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 15, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985; for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of

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150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; peremptory amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 11451, effective June 20, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19921, effective December 12, 1989;

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amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days.

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Section 310. Appendix C - Physician Administrator Rates and Medical Facilities Administrator Rates for Fiscal Year 1991

Title	Minimum Salary	Midpoint Salary	Maximum Salary
Medical Facilities Administrator I Option C	5,965 71,580	7,171 86,052	8,377 100,524
Medical Facilities Administrator I Option D	6,662 79,944	7,898 94,776	9,134 109,608
Medical Facilities Administrator II Option C	6,446 77,352	7,671 92,052	8,896 106,752
Medical Facilities Administrator II Option D	7,403 88,836	8,676 104,112	9,949 119,388
Medical Facilities Administrator III	7,664 91,968 7,664 91,968	8,943 107,316 9,063 108,756	10,222 122,664 10,462 125,544
Medical Facilities Administrator IV	7,789 93,468	9,187 110,244	10,585 127,020
Medical Facilities Administrator V	7,914 94,968	9,312 111,744	10,710 128,520
Physician Administrator I	4,711 56,532	5,781 69,372	6,851 82,212
Physician Administrator II	4,837 58,044	5,935 71,220	7,033 84,396
Physician Administrator III	4,967 59,604	6,095 73,140	7,223 86,676
Physician Administrator IV	5,225 62,700	6,321 75,852	7,417 89,004
Physician Administrator V	5,549 66,588	6,531 78,372	7,513 90,156

The rates of pay for physicians occupying or appointed to a position in the Physician Administrator classes and the Medical Facilities Administrator classes shall be as listed in the above schedule. All provisions of Subpart C of the Pay Plan, Merit Compensation System will apply to Physician Administrator positions and the Medical Facilities Administrator classes. (Source: Emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days)

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NOTICE OF EMERGENCY AMENDMENTS

- 1) The Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3) Section Numbers: 147.250
147. Table A
Emergency Action: New Section Amendment
- 4) Statutory Authority: Sections 5.5.1 et seq. and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars. 5.5.1 et seq. and 12-13)
- 5) Effective Date of Emergency Amendments: September 11, 1990
- 6) If this Emergency Amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date Filed in Agency's Principal Office: September 11, 1990
- 8) Reason for Emergency: This rulemaking provides for reimbursement to nursing facilities for the costs of providing services mandated under the Omnibus Budget Reconciliation Act of 1987 (OBRA '87). The Department has determined that the health and welfare of persons in need of such services would be adversely affected if the Department were not to adopt this rule on an emergency basis.
- 9) A Complete Description of the Subjects and Issues Involved: This rulemaking provides for reimbursement for costs incurred by long term care providers as a result of requirements imposed under the terms of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87). This change is estimated to increase the Department's annual aggregate expenditures by \$27,000,000.
- 10) Are there any proposed amendments pending to this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
147.150	Amendment	May 5, 1990 (14 Ill. Reg. 6664)
147.150	Amendment	August 31, 1990 (14 Ill. Reg. 13967)

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMSPART 147
REIMBURSEMENT FOR NURSING COSTS FOR
GERIATRIC FACILITIES

Section 147.5	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities
147.25	Functional Needs and Restorative Care
147.50	Service Needs
147.75	Definitions
147.100	Reconsiderations
147.105	Midnight Census Report
147.125	Times and Staff Levels
147.150	Statewide Rates
147.175	Referrals
147.200	Basic Rehabilitation Aide Training Program
147.205	Nursing Rates
147.250	Costs Associated with the Omnibus Budget Reconciliation Act of 1987
EMERGENCY 147.300	Determination of Program (Specialized Services) Costs
140.305	Specialized Service Requirements for Individuals With Mental Illness in Residential Facilities
147.310	Inspection of Care (IOC) Review Criteria for the Evaluation of Specialized Services in Residential Facilities for Individuals with Mental Illness
147.315	Comprehensive Functional Assessments and Reassessments
147.320	Interdisciplinary Team (IDT)
147.325	Comprehensive Care Plan (CCP)
147.330	Specialized Care - Administration of Psychopharmacologic Drugs
147.335	Specialized Care - Behavioral Emergencies
147.340	Discharge Planning
147.345	Reimbursement for Program Costs in Nursing Facilities Providing Specialized Services for Individuals with Mental Illness
147.350	Reimbursement for Program Costs in Nursing Facilities Providing Active Treatment for Individuals with Developmental Disabilities
TABLE A EMERGENCY TABLE B	Staff Time and Allocation by Need Level
	Staff Time and Allocation for Restorative Programs
AUTHORITY:	Implementing Article III of the Illinois Health

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Finance Reform Act (Ill. Rev. Stat. 1987 1989, ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987 1989, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13)

SOURCE: Recodified from 89 Ill. Adm. Code 140.900 thru 140.912 and 140. Table H and 140. Table I at 12 Ill. Reg. 6956; amended at 13 Ill. Reg. 559, effective January 1, 1989; amended at 13 Ill. Reg. 7043, effective April 24, 1989; emergency amendment at 13 Ill. Reg. 10999, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 16796, effective October 13, 1989; amended at 14 Ill. Reg. 210, effective December 21, 1989; emergency amendment at 14 Ill. Reg. 6915, effective April 19, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 9523, effective June 4, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14203, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 15578, effective September 11, for a maximum of 150 days.

NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

Section 147.250 Costs Associated with the Omnibus Budget Reconciliation Act of 1987
EMERGENCY

a) Reimbursement for Comprehensive Patient Assessment

1) Variable Time Reimbursement:

A) Effective July 1, 1990, nursing facilities will be reimbursed for the new variable time service category, comprehensive patient assessment. For the reimbursement year July 1, 1990 through June 30, 1991, reimbursement of this service item will cover the period October 1, 1990 (the effective date of the new federal regulation) through June 30, 1991. Starting with July 1, 1991, the reimbursement will cover the full reimbursement year.

B)

For the reimbursement period of July 1, 1990 until the nursing facility's first annual inspection of care nursing reimbursement rate update resulting from an annual inspection of care assessment occurring on

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Section 147.250
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Costs Associated with the Omnibus Budget Reconciliation Act of 1987 (Cont'd.)

or after January 1, 1991, the associated per diem per resident amounts of staff time and staff levels for this category of service shall be: one minute of nurse aide time; 2.2 minutes of licensed nurse time; 1.4 minutes of registered nurse time; and .6 minutes of social worker time.

- C) When individual nursing facilities have their annual inspection of Care nursing reimbursement rate update, as specified in subsection (a)(1)(A) above, reimbursement for this category of service will be based on individual resident need assessments from the resident assessment instrument and will be determined on an individual facility basis. The per diem per resident amounts of staff time and staff levels associated with resident assessment scores for this new category of service item which will be used in the individual facility determination of reimbursement are located in Section 147. Table A.

2) Determination of Facility Rate:

- A) For the reimbursement period July 1, 1990, through June 30, 1991, the per diem reimbursement amounts for comprehensive patient assessment shall be calculated by multiplying the number of reimbursement staff minutes for this category of service item by the statewide average per minute staff wages, and further multiplying this amount by .75 in order to prorate the nine month per diem amount to be paid over the full twelve months of the July 1, 1990 through June 30, 1991 reimbursement year.
- B) For the reimbursement period of July 1, 1990, until the nursing facility's first annual inspection of Care nursing reimbursement rate update resulting from an annual inspection of Care assessment occurring on or after January 1, 1991, the prorated per diem per resident amount for comprehensive

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patient assessment shall be added to the facility's new computed nursing rate as described in Section 147.205(c).

- C) When individual facilities have their annual inspection of Care nursing reimbursement rate update, as specified in subsection (a)(2)(B) above, the prorated per diem amount for comprehensive patient assessment calculated for each resident will be added to the other amounts calculated for the assessed needs of the resident and the facility rate will then be determined as specified in Section 147.150 (c)(1).
- D) Effective July 1, 1991, the proration of a nine month reimbursement to be reimbursed over a twelve month period will be discontinued and the reimbursement amounts for comprehensive patient assessment shall cover the full twelve months of the reimbursement year.

b) Reimbursement of Social Services

- 1) Effective July 1, 1990, nursing facilities will be reimbursed for social services. The reimbursement level of this service item will cover the nine month period from October 1, 1990 through June 30, 1991, for the reimbursement year July 1, 1990, through June 30, 1991. Starting July 1, 1991, the reimbursement level will be for a full twelve month reimbursement year.
- 2) For the reimbursement period of July 1, 1990, until the nursing facility's annual inspection of care nursing reimbursement rate update resulting from an annual inspection of Care assessment occurring on or after January 1, 1991, a statewide per diem reimbursement for social services will be based on the ratio of total social work wage costs to the total nursing wage costs for the facilities in the state. The actual social work and nursing wage costs facilities report in the cost reports will be

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Section 147.250
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Costs Associated with the Omnibus Budget
Reconciliation Act of 1987 (Cont'd.)

used in obtaining a statewide ratio, unless the nursing facility reports no social work wage costs or the facility has 120 or more beds and it reports annualized paid and accrued social work hours of less than 2080 hours. In the case of no social work wage costs reported, the facility's data will be excluded in deriving the statewide ratio. For a facility with 120 or more beds, the social work hours to be used in deriving the wage costs will be the greater of the reported paid and accrued social work hours or the annual 2080 hour standard adjusted to the length of the facility's cost report period.

- 3) For the reimbursement period July 1, 1990 through June 30, 1991, the social work to nursing cost statewide ratio derived in 2 subsection (b)(2) above will be multiplied by .75 in order to prorate the nine month per diem reimbursement amount to be paid over the full twelve months of the July 1, 1990 through June 30, 1991 reimbursement year. Effective July 1, 1991, the reimbursement will be discontinued and the reimbursement for social services shall cover the full twelve months of the reimbursement year.

- 4) The statewide ratio will be applied to the statewide average per diem per resident nursing care time cost amount (staff minutes multiplied by per minute wage) obtained from the resident assessments to derive the per diem per resident social service reimbursement which shall be added to the facility's new computed nursing rate described in Section 147.205 (c).

c) Reimbursement for Registered Nurse Coverage

- 1) Effective July 1, 1990, nursing facilities will be reimbursed for additional registered nurse coverage costs to meet the new OBRA requirements of maintaining registered nurse coverage eight hours per day seven days a week (effective October 1, 1990). The reimbursement of these additional costs will cover a nine month period for the July 1, 1990 through June 30, 1991 reimbursement year. Starting July 1, 1991, the

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reimbursement will cover a full twelve month period.

- 2) For the reimbursement period of July 1, 1990 until the nursing facility's annual inspection of Care nursing reimbursement rate update resulting from an annual inspection of Care assessment occurring on or after January 1, 1991, a statewide per diem per resident reimbursement for additional RN coverage costs will be derived based on the ratio of total additional RN coverage costs to total nursing wage costs for the facilities.

- 3) The additional costs for RN coverage costs will be derived as follows:

A) If a nursing facility reports no registered nurse salary costs in the cost report and the average hourly wages for the Director of Nursing (DON) and the Assistant Director of Nursing (ADON) are less than the average hourly registered nurse (RN) wage for the region, the annual RN salary cost will be determined by multiplying an annual 2912 hour RN coverage standard by the average hourly RN wage for the region. The amount will be adjusted to the length of the facility's cost report period to obtain the additional salary costs for RN coverage. If either the DON or the ADON average hourly wages are equal to or above the average hourly RN wage for the region, the annualized DON and ADON hours paid and accrued at a wage equal to or above the average hourly RN wage will be deducted from the 2912 hour standard used in deriving the annual salary cost for RN coverage. If the balance of hours is equal to or less than zero, the facility's additional salary cost for RN coverage will be zero.

- B) If a nursing facility reports RN salary costs and the annualized paid and accrued hours are below the 2912 hour standard, the difference between the annualized paid and

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accrued hours and the 2912 hour standard will be determined. If either the DON or ADON average hourly wages are equal to or above the average hourly RN wage for the region, the annualized DON and ADON hours paid and accrued at a wage level equal to or above the average hourly RN wage for the region will be deducted from the hour difference. The balance of hours will be multiplied by the average hourly RN wage for the region and the product will be adjusted to the length of the facility's cost report period to obtain the facility's additional salary costs for RN coverage. If the balance of hours is equal to or less than zero, the facility's additional salary cost for RN coverage will be zero.

C)

For the reimbursement period July 1, 1990 through June 30, 1991, the additional salary costs for RN coverage obtained in subsection (b)(2)(A) or (B) above will be multiplied by .75 in order to prorate the nine month reimbursement to be paid over the full twelve months of the reimbursement year.

For the year beginning July 1, 1991, the proration will be discontinued and the reimbursement for additional RN coverage shall cover the full twelve months of the reimbursement year.

D)

The statewide per diem reimbursement for additional RN coverage costs will be based on the ratio of the total additional RN coverage salary costs obtained from subsection (c)(3)(C) above to the statewide total nursing wage costs for the facilities.

E)

The resulting statewide ratio will be applied to the statewide average per diem per resident nursing care time cost amount (staff minutes multiplied by per minute wages) obtained from the resident assessments for the facilities to derive the statewide per diem per resident RN coverage

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reimbursement which shall be added to the facility's new computed nursing rate as described in subsection 147.205(c).

d) Variable Time Reimbursement for Social Services and Registered Nurse Coverage

1) Variable Time Reimbursement

A) When individual nursing facilities have their annual inspection of Care nursing reimbursement rate update, as specified in subsections (b)(2) and (c)(2) above, the statewide approach to per diem reimbursement for social services and additional RN coverage costs will be discontinued. Reimbursement for these areas will be converted to new variable time service categories: social services; continence restorative; specialized medication monitoring; restraint management and reduction; and communication.

B)

Per diem per resident reimbursement for these new categories of service items will be based on individual resident need assessments from the resident assessment instrument and will be determined on an individual facility basis. The per diem per resident amounts of staff time and staff levels associated with resident assessment scores for this new category of service item which will be used in the individual facility determination of reimbursement are located in Section 147. Table A.

2)

Determination of Facility Rate:

A)

For the reimbursement period specified in subsection (d)(1)(A) above through June 30, 1991, the per diem reimbursement amounts for social services, continence restorative, specialized medication monitoring, restraint management and reduction, and sensory perceptual shall be calculated for each resident by multiplying the number of

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reimbursable staff minutes for these category of service items by the appropriate staff wages (as derived according to Rule 147.150 (b)(1)(A), and further multiplying these amounts by .75 in order to prorate the nine month per diem amounts to be paid over a twelve month period.

The prorated per diem amounts for these new variable time category of service items calculated for each resident will be added to the other per diem amounts calculated for the assessed needs of the resident and the facility rate will then be determined as specified in Rule 147.150 (C)(1).

Effective July 1, 1991, the proration of a nine month reimbursement to be reimbursed over a twelve month period will be discontinued and the reimbursement amounts for these new variable time category of service items shall cover the full twelve months of the reimbursement year.

(Source: Emergency amendment at 14 Ill. Reg. 1578, effective September 11, 1990, for a maximum of 150 days)

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a) The following reimbursement times, allocations, and need levels apply for all reimbursement periods commencing on January 1, 1988, through June 30, 1989.

Item	Level	Time	Allocation	Staff Type
Bathing, Grooming	0	6		Nurse Aide
	1	12		Nurse Aide
	2	22		Nurse Aide
Clothing	0	4		Nurse Aide
	1	10		Nurse Aide
	2	20		Nurse Aide
Eating	0	6		Nurse Aide
	1	15		Nurse Aide

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EMERGENCY

Costs Associated with the Omnibus Budget Reconciliation Act of 1987 (Cont'd.)

reimbursable staff minutes for these category of service items by the appropriate staff wages (as derived according to Rule 147.150 (b)(1)(A), and further multiplying these amounts by .75 in order to prorate the nine month per diem amounts to be paid over a twelve month period.

The prorated per diem amounts for these new variable time category of service items calculated for each resident will be added to the other per diem amounts calculated for the assessed needs of the resident and the facility rate will then be determined as specified in Rule 147.150 (C)(1).

Effective July 1, 1991, the proration of a nine month reimbursement to be reimbursed over a twelve month period will be discontinued and the reimbursement amounts for these new variable time category of service items shall cover the full twelve months of the reimbursement year.

(Source: Emergency amendment at 14 Ill. Reg. 1578, effective September 11, 1990, for a maximum of 150 days)

Section 147.250
EMERGENCY

a) The following reimbursement times, allocations, and need levels apply for all reimbursement periods commencing on January 1, 1988, through June 30, 1989.

Item	Level	Time	Allocation	Staff Type
Bathing, Grooming	0	6		Nurse Aide
	1	12		Nurse Aide
	2	22		Nurse Aide
Clothing	0	4		Nurse Aide
	1	10		Nurse Aide
	2	20		Nurse Aide
Eating	0	6		Nurse Aide
	1	15		Nurse Aide

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Section 147.250
EMERGENCY

Costs Associated with the Omnibus Budget Reconciliation Act of 1987 (Cont'd.)

reimbursable staff minutes for these category of service items by the appropriate staff wages (as derived according to Rule 147.150 (b)(1)(A), and further multiplying these amounts by .75 in order to prorate the nine month per diem amounts to be paid over a twelve month period.

The prorated per diem amounts for these new variable time category of service items calculated for each resident will be added to the other per diem amounts calculated for the assessed needs of the resident and the facility rate will then be determined as specified in Rule 147.150 (C)(1).

Effective July 1, 1991, the proration of a nine month reimbursement to be reimbursed over a twelve month period will be discontinued and the reimbursement amounts for these new variable time category of service items shall cover the full twelve months of the reimbursement year.

(Source: Emergency amendment at 14 Ill. Reg. 1578, effective September 11, 1990, for a maximum of 150 days)

Section 147.250
EMERGENCY

a) The following reimbursement times, allocations, and need levels apply for all reimbursement periods commencing on January 1, 1988, through June 30, 1989.

Item	Level	Time	Allocation	Staff Type
Bathing, Grooming	0	6		Nurse Aide
	1	12		Nurse Aide
	2	22		Nurse Aide
Clothing	0	4		Nurse Aide
	1	10		Nurse Aide
	2	20		Nurse Aide
Eating	0	6		Nurse Aide
	1	15		Nurse Aide

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Section 147. Table A Staff Time and Allocation by Need Level
EMERGENCY (Cont'd.)

Item	Level	Time	Allocation	Staff Type
Wound Care	0	0		
	1	6		Licensed Staff
	2	18		Licensed Staff
Injections	0	0		
	1	1		Licensed Staff
	2	4.5		Licensed Staff
Intravenous, Clysis	0	0		
	1	4		Licensed Staff
	2	8		Licensed Staff
Lab Specimen	0	0		
	1	1	.5/.5	Nurse Aide/ Licensed Staff
	2	2	1/1	Nurse Aide/ Licensed Staff
	3	10	5/5	Nurse Aide/ Licensed Staff
Speech - Language Pathology and Audiology	0	0		
	1	8		Therapist
Medications and Medication Monitoring	0	12		Licensed Staff
	1	14		Licensed Staff
	2	16		Licensed Staff
	3	18		Licensed Staff
Occupational Therapy	0	0		
	1	14		Therapist
	2	14	13/1	COTA/Therapist
	3	14	13/1	Nurse Aide/ Therapist
Ostomy Care	4	1		Therapist
	0	0		Therapist
	1	6		Licensed
	2	13		Licensed
Physical Therapy	0	0		
	1	14		Therapist
	2	14	13/1	PTA/Therapist

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DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Section 147. Table A Staff Time and Allocation by Need Level
EMERGENCY (Cont'd.)

Item	Level	Time	Allocation	Staff Type
Physical Therapy	3	14	13/1	Nurse Aide/ Therapist
	4	1		Therapist
Respiratory Therapy	0	0		
	1	17	15/2	Nurse Aide/ Licensed Staff
	2	25	5/20	Nurse Aide/ Licensed Staff
Tracheostomy Care	0	0		
	1	6		Licensed Staff
	2	13		Licensed Staff
Suctioning	0	0		
	1	5		Licensed Staff
	2	30		Licensed Staff
Passive Range of Motion	0	0		
	1	7		Nurse Aide
	2	14		Nurse Aide
Discharge Planning	0	0		
	1	10		Licensed Staff
Health and Fitness	0	0		
	1	4	3/1	Nurse Aide/ Licensed Staff
	2	5	3/2	Nurse Aide/ Licensed Staff
	3	4	3/1	Nurse Aide/ Licensed Staff
Activities	0	10		Nurse Aide
Grooming	0	3		Nurse Aide

Agency Note: level "0" carries no reimbursement potential when accompanied by "0" time. Level "0" provides reimbursement for every facility when accompanied with time. Such time becomes a facility's base rate for every resident.

b) The following reimbursement times, allocations, and need levels apply for all reimbursement periods

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Section 147. Table A Staff Time and Allocation by Need Level
EMERGENCY (Cont'd.)

commencing on or after July 1, 1989 through December 31, 1990.

Item	Level	Time	Allocation	Staff Type
Bathing, Grooming	0	6		Nurse Aide
	1	12		Nurse Aide
	2	22		Nurse Aide
Clothing	0	4		Nurse Aide
	1	10		Nurse Aide
	2	20		Nurse Aide
Eating	0	6		Nurse Aide
	1	15		Nurse Aide
	2	39		Nurse Aide
	3	39		Licensed Staff
Mobility	0	5		Nurse Aide
	1	12		Nurse Aide
	2	14		Nurse Aide
Continence	0	2		Nurse Aide
	1	14		Nurse Aide
	2	19.6		Nurse Aide
Psycho-Social Care	0	12		Nurse Aide
	1	28	19.5/8.5	Nurse Aide/ Licensed Staff
Appliances	0	0		Nurse Aide/ Licensed Staff
	1	7	6/1	Nurse Aide/ Licensed Staff
Catheters	0	0		Nurse Aide/ Licensed Staff
	1	12.1	6/6.1	Nurse Aide/ Licensed Staff
Decubitus Care	0	0		Licensed Staff
	1	8		Licensed Staff
	2	20		Licensed Staff
	3	0	0/0	Licensed Staff
	4	0	0/0	Licensed Staff
Decubitus Prevention	0	0		Nurse Aide/

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NOTICE OF EMERGENCY AMENDMENTS

Section 147. Table A Staff Time and Allocation by Need Level
EMERGENCY (Cont'd.)

Item	Level	Time	Allocation	Staff Type
Decubitus Prevention	1	8	6/2	Licensed Staff
	2	14	12/2	Nurse Aide/ Licensed Staff
Wound Care	0	0		Licensed Staff
	1	6		Licensed Staff
	2	18		Licensed Staff
Injections	0	0		Licensed Staff
	1	1		Licensed Staff
	2	4.5		Licensed Staff
Intravenous, Clysis	0	0		Licensed Staff
	1	4		Licensed Staff
	2	8		Licensed Staff
Lab Specimen	0	0		Nurse Aide/ Licensed Staff
	1	1	.5/.5	Nurse Aide/ Licensed Staff
	2	2	1/1	Licensed Staff
	3	10	5/5	Nurse Aide/ Licensed Staff
Speech - Language Pathology and Audiology	0	0		Therapist
	1	0		Therapist
Medications and Medication	0	12.8		Licensed Staff
	1	16.1		Licensed Staff
Occupational Therapy	0	0		Therapist
	1	13		Therapist
Ostomy Care	0	0		Licensed
	1	6		Licensed
	2	13		Licensed
Physical Therapy	0	0		Nurse Aide
	1	13		Nurse Aide
Respiratory Therapy	0	0		Nurse Aide/ Licensed Staff
	1	17	15/2	Nurse Aide/ Licensed Staff

NOTICE OF EMERGENCY AMENDMENTS

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NOTICE OF EMERGENCY AMENDMENTS

Section 147. Table A Staff Time and Allocation by Need Level
EMERGENCY (Cont'd.)

Item	Level	Time	Allocation	Staff Type
Respiratory Therapy	2	25	5/20	Nurse Aide/ Licensed Staff
Tracheostomy Care	0	0		
	1	6		
	2	13		Licensed Staff
Suctioning	0	0		
	1	5		Licensed Staff
	2	30		Licensed Staff
Passive Range of Motion	0	0		
	1	11.8		Nurse Aide
Discharge Planning	0	0		
	1	10		Licensed Staff
Health and Fitness	0	0	3/1	Nurse Aide/ Licensed Staff
	1	4		
Activities	0	10		Nurse Aide
Grooming	0	3		Nurse Aide
c) The following reimbursement times, allocations, and need levels apply for all reimbursement periods commencing on or after January 1, 1991.				
Item	Level	Time	Allocation	Staff Type
Bathing, Grooming	0	6		Nurse Aide
	1	12		Nurse Aide
	2	22		Nurse Aide
Clothing	0	4		Nurse Aide
	1	10		Nurse Aide
	2	20		Nurse Aide
Eating	0	6		Nurse Aide
	1	15		Nurse Aide
	2	39		Nurse Aide
	3	39		Licensed Staff

Section 147. Table A Staff Time and Allocation by Need Level
EMERGENCY (Cont'd.)

Item	Level	Time	Allocation	Staff Type
Mobility	0	5		Nurse Aide
	1	12		Nurse Aide
	2	14		Nurse Aide
Continence	0	2		
	1	14		Nurse Aide
	2	19.6		Nurse Aide
Psycho-Social Care	0	12	19.5/8.5	Nurse Aide
	1	28		Nurse Aide/ Licensed Staff
Appliances	0	0		
	1	7	6/1	Nurse Aide/ Licensed Staff
Catheters	0	0		
	1	12.1	6/6.1	Nurse Aide/ Licensed Staff
Decubitus Care	0	0		
	1	8		Licensed Staff
	2	20		Licensed Staff
	3	0	0/0	
	4	0	0/0	
Decubitus Prevention	0	0		Nurse Aide/ Licensed Staff
	1	8	6/2	Nurse Aide/ Licensed Staff
	2	14	12/2	Licensed Staff
Wound Care	0	0		
	1	6		Licensed Staff
	2	18		Licensed Staff
Injections	0	0		
	1	1		Licensed Staff
	2	4.5		Licensed Staff
Intravenous, Clysis	0	0		
	1	4		Licensed Staff
	2	8		Licensed Staff

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NOTICE OF EMERGENCY AMENDMENTS

Section 147. Table A Staff Time and Allocation by Need Level
EMERGENCY (Cont'd.)

Item	Level	Time	Allocation	Staff Type
Lab Specimen	0 1 2 3	0 1 2 10	.5/.5 1/1 5/5	Nurse Aide/ Licensed Staff Nurse Aide/ Licensed Staff Nurse Aide/ Licensed Staff
Speech - Language Pathology and Audiology	0 1	0 0		Therapist
Medications and Medication Moni- oring	0 1 2	12.8 16.1 18.1		Licensed Staff Licensed Staff Licensed Staff
Occupational Therapy	0 1	0 13		Therapist
Ostomy Care	0 1 2	0 6 13		Licensed Licensed
Physical Therapy	0 1	0 13		Nurse Aide
Respiratory Therapy	0 1 2	0 17 25	15/2 5/20	Nurse Aide/ Licensed Staff Nurse Aide/ Licensed Staff
Tracheostomy Care	0 1 2	0 6 13		Licensed Staff Licensed Staff
Suctioning	0 1 2	0 5 30		Licensed Staff Licensed Staff
Passive Range of Motion	0 1	0 11.8		Nurse Aide

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

Section 147. Table A Staff Time and Allocation by Need Level
EMERGENCY (Cont'd.)

Item	Level	Time	Allocation	Staff Type
Resident Assessment	0	2.6	.5/1.1/ .7/.3	Nurse Aide/ Licensed Staff/ Registered Nurse/Social Worker Nurse Aide/ Licensed Staff/ Registered Nurse/Social Worker
	1	7.8	1.5/3.3/ 2.1/.9	Nurse Aide/ Licensed Staff/ Registered Nurse/Social Worker
Discharge Planning	0 1	0 10		Licensed Staff
Health and Fitness	0 1	0 4	3/1	Nurse Aide/ Licensed Staff
Activities	0	10		Nurse Aide
Grooming	0	3		Nurse Aide
Social Services	0 1	0 2	.5/.5/1	Nurse Aide/ Licensed Staff/ Social Worker Nurse Aide/ Licensed Staff/ Social Worker
Continence Restorative	0 1	0 14	12/2	Nurse Aide/ Licensed Staff Nurse Aide/ Licensed Staff
	2	26	24/2	Licensed Staff
Restraint Management and Reduction	0 1	0 3.5	3/.5	Nurse Aide Licensed Staff

NOTICE OF EMERGENCY AMENDMENTS

Section 147. Table A Staff Time and Allocation by Need Level
EMERGENCY (Cont'd.)

Item	Level	Time	Allocation	Staff Type
Communication	0 1	0 8	6/2	Nurse Aide/ Licensed Staff

Agency Note: level "0" carries no reimbursement potential when accompanied by "0" time. Level "0" provides reimbursement for every facility when accompanied with time. Such time becomes a facility's base rate for every resident.

(Source: Emergency amendment at Ill. Reg. 15578, effective September 11, 1990, for a maximum of 150 days)

DEPARTMENT OF CORRECTIONS

NOTICE OF MODIFICATION TO EMERGENCY AMENDMENTS IN RESPONSE TO
AN OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: RECORDS OF COMMITTED PERSONS
- 2) Code Citation: 20 Ill. Adm. Code 107
- 3) Section numbers: 107.210
- 4) Notice of Emergency Amendments published in the Illinois Register:
July 27, 1990 14 Ill. Reg. 12273
(issue date)
- 5) JCAR Statement of Objection to Emergency Rules (Amendments, Repealer)
published in the Illinois Register:
September 21, 1990 14 Ill. Reg. 15600
(issue date)
- 6) Date agency submitted this modification to JCAR for approval: September 6, 1990
- 7) Summary of Action Taken by the Agency: The Department has agreed to add the offense of kidnapping to Section 107.210(e) immediately after aggravated kidnapping.

The full text of the Section(s) of the emergency amendment
being modified begins on the next page:

DEPARTMENT OF CORRECTIONS

NOTICE OF MODIFICATION TO EMERGENCY AMENDMENTS IN RESPONSE TO
AN OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULESSection 107.210 Awarding of Meritorious Good Time
EMERGENCY

- a) In determining whether or not to award good conduct credits for meritorious service, the Director may examine or consider, among other matters:

- 1) The complete master record file of the committed person.
- 2) Reports or recommendations made concerning the committed person.
- 3) The fact that the committed person has not violated any rule of the Department over a period of time.
- 4) The job performance of the committed person while in the custody of the Department.
- 5) The educational program or achievements of the committed person while in the custody of the Department.
- 6) The action of the committed person in:
 - A) Saving the life of an employee or other committed person;
 - B) Performing heroic service during a flood, tornado, or act of God;
 - C) Volunteering for an exceptionally hazardous or dangerous assignment; or
 - D) Assisting in maintaining control during a general disturbance.

- b) The decision to grant meritorious good time may be initiated unilaterally by the Director or his designee.

- c) In addition, petitions for granting meritorious good time may be submitted by any committed person or by any person or persons in the employ of the Department of Corrections on behalf of any committed person.

- d) No committed person shall be granted more than 180 days of meritorious good time during a term of incarceration.

- e) No persons who are committed for the following offenses shall be awarded more than 90 days of meritorious good time during a term of

DEPARTMENT OF CORRECTIONS

NOTICE OF MODIFICATION TO EMERGENCY AMENDMENTS IN RESPONSE TO
AN OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

incarceration: first degree murder, reckless homicide while under the influence of alcohol or any other drug, aggravated kidnapping, kidnapping, aggravated criminal sexual assault, criminal sexual assault, deviate sexual assault, aggravated criminal sexual abuse, aggravated indecent liberties with a child, indecent liberties with a child, child pornography, heinous battery, aggravated battery of a spouse, aggravated battery of a spouse with a firearm, aggravated battery of a child, endangering the life or health of a child, cruelty to a child, or narcotic racketeering.

(Source: Emergency amendment at 14 Ill. Reg. 12273, effective July 17, 1990, for a maximum of 150 days; modified at 14 Ill. Reg. 15600.)

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JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION

ENVIRONMENTAL PROTECTION AGENCY

Heading of Part: Procedures for Issuing Solid Waste Planning and Enforcement Grants

Code Citation: 35 Ill. Adm. Code 870

Section Numbers: 870.305

Date Originally Published in Illinois Register: June 8, 1990
14 Ill. Reg. 8809

At its meeting on August 21, 1990, the Joint Committee on Administrative Rules objected to the above proposed rulemaking. Failure of the agency to respond within 90 days of receipt of the Statement of Objection shall constitute withdrawal of the proposed rulemaking in its entirety.

The specific objection is as follows:

The Joint Committee objects to Section 870.305(a)(2) of the Environmental Protection Agency's proposed rule entitled "Procedures for Issuing Solid Waste Planning and Enforcement Grants" because the Agency has adopted policy not in its rules, as evidenced by the fact that the Agency refers to grounds and procedures for Agency action in the event of noncompliance with the rules or grant conditions which are contained in its Grant Award Notification rather than in the rules.

When Part 870 was originally considered at the March 31, 1987 Joint Committee meeting, the Joint Committee issued two objections. One of these objections was that the rules were incomplete in that, among other things they failed to contain grounds and procedures for action by the Agency in the event of noncompliance with the rules or grant conditions.

Although the Agency conceded at that time that Part 870 did not provide the criteria and standards described by the Committee, it responded by declining to add text to its rules specifying its policies as it felt the rules were sufficiently complete to allow it to administer the grant programs until such time as the agency could promulgate and adopt rules and conditions applicable to such grant programs.

At its June 3, 1987 meeting, the Joint Committee voted to request the Agency provide the Joint Committee with the guidelines ultimately developed. The agency has never provided these guidelines.

In connection with the current rulemaking, the Agency was again requested to provide the Joint Committee with a copy of the grounds and

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JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION

ENVIRONMENTAL PROTECTION AGENCY
(Continued Page 2)

procedures for action referred to in subsection 870.305(2). The Agency responded by providing the Committee with an 81-page packet of materials entitled "Example of a Typical Grant Award Notification" and containing the notation "all grant conditions and grounds and procedures are either contained herein or are set forth in Parts 870 or 871".

Although Part 871, entitled "General Conditions of State of Illinois Grants for Nonhazardous Solid Waste Planning and Enforcement" was adopted in 1987 and over three years has elapsed since the Joint Committee's objection, the Agency still has not promulgated grounds and procedures for action by the Agency in the event of noncompliance with rules and grant conditions. Instead, the Agency relies on the Grant Award Notification to supplement its rules with respect to grounds and procedures for action by the Agency in the event of noncompliance with rules and grant conditions.

In reviewing the Grant Award Notification, it was found to contain several instances where policy is established outside the rules. For example, it is stated in the cover letter that "(the) enforcement grant is contingent upon the county having a valid delegation agreement with IEPA." The rules contain no mandate to this effect, and in fact, the statutes show such a delegation agreement is discretionary (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1004(r)).

Another example occurs in paragraph number five of the "Special Solid Waste Management Enforcement Grant Conditions for Project SFY 90" which states that "the applicant must comply with the applicable provisions of General Conditions Section 871.801(g)." Part 871 of the rules does not contain a "General Conditions Section, nor does it have a Section numbered 871.801(g).

A third example of policy appearing in the Grant Award Notification but not in the Agency's rules occurs with respect to the procedures for inspections and investigations, attorney referrals, formal enforcement and administrative citations outlined in the Enforcement Management System document which is attached to the Grant Award Notification.

In conference relative to this rulemaking the Agency was requested to either include the grounds and procedures in the text of its rulemaking or to include as an exhibit a sample Grant Award Notification containing grounds and procedures relied on by the Agency but which are not otherwise included in the rules. The Agency then pointed out that the Joint Committee's question regarding grounds and procedures related to previously-existing text that the Committee had reviewed in March 31,

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION

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policy not in its rules, as evidenced by the fact that the Agency refers to grounds and procedures for Agency action in the event of noncompliance with the rules or grant conditions which are contained in its Grant Award Notification rather than in the rules.

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JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION

ENVIRONMENTAL PROTECTION AGENCY
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1987. Although it is not the Joint Committee's custom to question previously-reviewed language, this is a case where the Committee had objected to the language and where the Agency subsequently adopted the language over the Committee's objection.

Section 5(a) of the IAPA provides that "prior to the adoption, amendment or repeal of any rule, each agency shall accomplish the actions required by Section 5.01, 5.02, or 5.03, whichever is applicable." In this instance, the general rulemaking procedures required by Section 5.01 are applicable. Adoption of the Agency's rules must be accomplished in accordance with the rulemaking procedures of Section 5.01 of the IAPA. The Illinois Appellate Court, in *Sleeth v. Illinois Department of Public Aid*, 125 Ill. App.3d 847, 81 Ill. Dec. 117 (3d. Dist. 1984), held that a requirement, which was expressed in a manual release, was invalid since it was a rule, as defined by Section 3.09 of the IAPA, but was not adopted in accordance with statutory procedures. The Court stated that,

The rule in question affected private rights and procedures available to persons outside the IDPA. This type of statement by an agency is specifically included with the definition of rule under the Administrative Procedures Act. As such, we believe it is a rule which can only be adopted in accordance with the procedures set forth in that Act. Where rules are not adopted consistent with the statutory procedures, the rules are not valid. (*Sleeth*, 81 Ill. Dec. at 121)

In addition, it does not appear appropriate for the Board to include these policies in its rules in response to an objection since such action would circumvent the public notice and comment provisions of Section 5.01 of the IAPA. Agencies may only circumvent these public notice and comment requirements when the rules are needed immediately due to an emergency, federal law or rules, or court decisions.

Therefore, in view of the fact that the Joint Committee objected to this omission in March 1987 and the fact that three years have passed during which the Agency has adopted policy not expressed in the rules, the Joint Committee objects to subsection 870.305(a)(2) of the Environmental Protection Agency's proposed rule entitled "Procedures for Issuing Solid Waste Planning and Enforcement Grants" because the Agency has adopted

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION

STATEMENT OF RECOMMENDATION

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROTECTION AGENCY
(Continued Page 2)

Heading of Part:

Procedures for Issuing Solid Waste Planning and Enforcement Grants

Code Citation:

35 Ill. Adm. Code 870

Section Numbers:

Date Originally Published in Illinois Register:

June 8, 1990
14 Ill. Reg. 8809

At its meeting on August 21, 1990, the Joint Committee

The Department should respond within 90 days of the receipt of this Statement of Recommendation.

The specific recommendation is as follows:

The Joint Committee suggests to the Illinois Environmental Protection Agency that it refrain from modifying its rules, in response to this objection, to include its policies contained in the Grant Award Notification forms, but that it promulgate a rulemaking to include such policies in its rules.

When Part 870 was originally considered at the March 31, 1987 Joint Committee meeting, the Joint Committee issued two objections. One of these objections was that the rules were incomplete in that, among other things they failed to contain grounds and procedures for action by the Agency in the event of noncompliance with the rules or grant conditions.

Although the Agency conceded at that time that Part 870 did not provide the criteria and standards described by the Committee, it responded by declining to add text to its rules specifying its policies as it felt the rules were sufficiently complete to allow it to administer the grant programs until such time as the agency could promulgate and adopt rules and conditions applicable to such grant programs.

At its June 3, 1987 meeting, the Joint Committee voted to request the Agency provide the Joint Committee with the guidelines ultimately developed. The agency has never provided these guidelines.

In connection with the current rulemaking, the Agency was again requested to provide the Joint Committee with a copy of the grounds and procedures for action referred to in subsection 870.305(2). The Agency responded by providing the Committee with an 81-page packet of materials entitled "Example of a Typical Grant Award Notification" and containing the notation "all grant conditions and grounds and procedures are either contained herein or are set forth in Parts 870 or 871".

Although Part 871, entitled "General Conditions of State of Illinois Grants for Nonhazardous Solid Waste Planning and Enforcement" was adopted in 1987 and over three years has elapsed since the Joint Committee's objection, the Agency still has not promulgated grounds and procedures for action by the Agency in the event of noncompliance with rules and grant conditions. Instead, the Agency relies on the Grant Award Notification to supplement its rules with respect to grounds and procedures for action by the Agency in the event of noncompliance with rules and grant conditions.

In reviewing the Grant Award Notification, it was found to contain several instances where policy is established outside the rules. For example, it is stated in the cover letter that "(the) enforcement grant is contingent upon the county having a valid delegation agreement with the IEPA." The rules contain no mandate to this effect, and in fact, the statutes show such a delegation agreement is discretionary (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1004(r)).

Another example occurs in paragraph number five of the "Special Solid Waste Management Enforcement Grant Conditions for Project SFY 90" which states that "the applicant must comply with the applicable provisions of General Conditions Section 871.801(g)." Part 871 of the rules does not contain a "General Conditions Section, nor does it have a Section numbered 871.801(g).

A third example of policy appearing in the Grant Award Notification but not in the Agency's rules occurs with respect to the procedures for inspections and investigations, attorney referrals, formal enforcement and administrative citations outlined in the Enforcement Management System document which is attached to the Grant Award Notification.

In conference relative to this rulemaking the Agency was requested to either include the grounds and procedures in the text of its rulemaking or to include as an exhibit a sample Grant Award Notification containing grounds and procedures relied on by the Agency but which are not otherwise included in the rules. The Agency then pointed out that the

STATEMENT OF RECOMMENDATION

ENVIRONMENTAL PROTECTION AGENCY
(Continued Page 3)

Joint Committee's question regarding grounds and procedures related to previously-existing text that the Committee had reviewed in March 31, 1987. Although it is not the Joint Committee's custom to question previously-reviewed language, this is a case where the Committee had objected to the language and where the Agency subsequently adopted the language over the Committee's objection.

Section 5(a) of the IAPA provides that "prior to the adoption, amendment or repeal of any rule, each agency shall accomplish the actions required by Section 5.01, 5.02, or 5.03, whichever is applicable." In this instance, the general rulemaking procedures required by Section 5.01 are applicable. Adoption of the Agency's rules must be accomplished in accordance with the rulemaking procedures of Section 5.01 of the IAPA. The Illinois Appellate Court, in Sleeth v. Illinois Department of Public Aid, 125 Ill. App.3d 847, 81 Ill. Dec. 117 (3d. Dist. 1984), held that a requirement, which was expressed in a manual release, was invalid since it was a rule, as defined by Section 3.09 of the IAPA, but was not adopted in accordance with statutory procedures. The Court stated that,

The rule in question affected private rights and procedures available to persons outside the IDPA. This type of statement by an agency is specifically included with the definition of rule under the Administrative Procedures Act. As such, we believe it is a rule which can only be adopted in accordance with the procedures set forth in that Act. Where rules are not adopted consistent with the statutory procedures, the rules are not valid. (Sleeth, 81 Ill. Dec. at 121)

In addition, it does not appear appropriate for the Board to include these policies in its rules in response to an objection since such action would circumvent the public notice and comment provisions of Section 5.01 of the IAPA. Agencies may only circumvent these public notice and comment requirements when the rules are needed immediately due to an emergency, federal law or rules, or court decisions.

Therefore, the Joint Committee suggests to the Illinois Environmental Protection Agency that it refrain from modifying its rules, in response to this objection, to include its policies contained in the Grant Award

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Notification forms, but that it promulgate a rulemaking to include such policies in its rules.

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ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION

DEPARTMENT OF PUBLIC AID

Heading of Part: Developmental Disabilities ServicesCode Citation: 89 Ill. Adm. Code 144Section Numbers: 144.275Date Originally Published in Illinois Register: March 23, 1990
14 Ill. Reg. 4419

At its meeting on August 21, 1990, the Joint Committee on Administrative Rules objected to the above proposed rulemaking. Failure of the agency to respond within 90 days of receipt of the Statement of Objection shall constitute withdrawal of the proposed rulemaking in its entirety.

The specific objection is as follows:

The Joint Committee objects to Section 144.275 of the rules of the Department of Public Aid entitled "Developmental Disabilities Services" (89 Ill. Adm. Code 144) because, contrary to Section 4.02 of the Illinois Administrative Procedure Act (IAPA), the Department has failed to set forth clear and precise standards for determining the method by which dollar, wage and salary amounts shall be inflated for the fiscal year for which reimbursement will be made.

This rulemaking revises the Department of Public Aid's reimbursement formula for active treatment provided to individuals with developmental disabilities. The opening paragraph of Section 144.275 provides that:

Residential facilities, including distinct parts of facilities, for clients with developmental disabilities, excluding State operated facilities for individuals with developmental disabilities, will be reimbursed for an active treatment program for each client. Facility program reimbursement levels will be derived from the following four determinants which, in combination, will result in a total facility program per diem amount. These four determinants will be determined according to information provided in the most recent Inspection of Care (IOC) conducted by Department survey staff. This IOC information must be validated by the survey staff prior to utilization for payment

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purposes. The new reimbursement level will be effective on the first day of the quarter following a facility's IOC. Where dollar, wage, or salary amounts are used, these shall be inflated to the fiscal year for which reimbursement will be made.

The Department was asked to specify the method used to determine the amount that dollars, wages or salaries would be inflated to the fiscal year for which reimbursement will be made. In its correspondence with the Department, the Joint Committee staff was told that the Department would supply the requested standards. These standards were never received. At the conference between the Department and Joint Committee staff, the Department indicated that it had formulated standards in response to the U.S. Health Care Financing Administration's (HCFA) request that the Department review its State plan, and that these standards were contained within a letter between the Department and HCFA. The Department stated that it did not want to make this letter available to the Joint Committee, and also did not want to inform the Joint Committee of the standards contained within the letter. The Department's rationale for this refusal was that these standards were subject to change and upon the standards being finalized, they would be provided to the Joint Committee. Subsequent to the staff conference, the Department explained that the wages will be inflated by applying the projected annual rate of inflation of the Data Resources Incorporated (DRI) health care cost publication, specifically the average hourly earnings of the nursing and personal care facility index.

Section 4.02 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1985, ch. 127, par. 1004.02) requires rules that implement discretionary powers to be exercised by an agency to include the standards to be used in the exercise of discretion. Section 4.02 further requires that such standards shall be stated as precisely and clearly as practicable, to inform fully those persons affected by the rule.

The Department has refused to include standards in its rule for determining the method by which dollar, wage and salary amounts shall be inflated for the fiscal year for which reimbursement will be made. The Department's failure to include standards violates the requirement of Section 4.02 that rules implementing discretionary powers to be exercised by an agency include the standards to be used in the exercise of such discretion. In addition, the Department's submittal of these standards to HCFA is an indication that the Department considers the standards final;

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therefore, the Department should provide the standards to the Joint Committee as requested.

The explanation that was eventually provided by the Department specifying how wages will be inflated with the use the Data Resource Incorporated (DRI) health care cost publication is inadequate. The Department has not explained where the publication may be obtained, or if a publication of DRI is in compliance with the requirements concerning incorporation by reference contained in Section 6.02 of the IAPA.

Therefore, the Joint Committee objects to Section 144.275 of the rules of the Department of Public Aid entitled "Developmental Disabilities Services" (89 Ill. Adm. Code 144) because, contrary to Section 4.02 of the Illinois Administrative Procedure Act (IAPA), the Department has failed to set forth clear and precise standards for determining the method by which dollar, wage and salary amounts shall be inflated for the fiscal year for which reimbursements will be made.

88604419

Heading of Part:

Hospital Services

Code Citation:

89 Ill. Adm. Code 148

Section Numbers:

148.140

Date Originally Published in Illinois Register:April 13, 1990
14 Ill. Reg. 5409

At its meeting on August 21, 1990, the Joint Committee on Administrative Rules objected to the above proposed rulemaking. Failure of the agency to respond within 90 days of receipt of the Statement of Objection shall constitute withdrawal of the proposed rulemaking in its entirety.

The specific objections are as follows:

Objection 1

The Joint Committee objects to Section 148.140 of the rules of the Department of Public Aid entitled "Hospital Services" (89 Ill. Adm. Code 148) because by stopping use of the "scope of service index" as a part of the definition of "major teaching hospital" prior to the adoption of these rules the Department has implemented this rule prior to the completion of required rulemaking procedures of the Illinois Administrative Procedure Act (IAPA) in violation of Sections 4(c), 5(a) and 5.01(c) of the IAPA.

The proposed amendment to 89 Ill. Adm. Code 148.140 deletes the "scope of service index" from the definition of "major teaching hospital".

The Department's first notice for this rulemaking stated that the "scope of service" criteria was no longer being used. The Department was asked when the Department stopped using the "scope of service" criteria. The Department explained that the use of the criteria stopped approximately two years ago.

The IAPA (Ill. Rev. Stat. 1989, ch. 127, par. 1001 et seq.) prohibits the Department of Public Aid from implementing these rules prior to their adoption in accordance with the rulemaking procedures. Section 4(c) of the IAPA states that "[n]o agency rule is effective against any person or party, nor may it be invoked by the agency for any purposes until it has been as required by this Act." In addition, Section 5(a) of the IAPA provides that "prior to the adoption, amendment or repeal of any rule, each agency shall accomplish the actions required by Section 5.01,

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5.02 and 5.03, whichever is applicable" (emphasis added). In this instance the Department chose to implement its rules under the general rulemaking procedure of Section 5.01. The Department, however, did not comply with Section 5.01(c) which prescribes that a rule may not be effective until its adoption. Section 5.01(c) of the IAPA states that "each rule hereafter adopted under this section is effective upon filing, unless a later effective date is required by statute or specified in the rules." The Department has failed to comply with the requirements of Section 4(c), 5(a) and 5.01(c). Furthermore, Section 5(b) invalidates agency actions to adopt, amend, or repeal a rule which are not taken in compliance with the IAPA's procedural requirements.

This is not the first time that the Joint Committee has been presented with the issue of rules being invoked prior to adoption in accordance with the IAPA's rulemaking procedures. The Joint Committee has consistently issued objections to agencies which implement amendments prior to adoption of these rules under the general rulemaking procedures of Section 5.01 of the IAPA. As previously stated, the Department admits implementing the change in the "major teaching hospital" definition prior to the conclusion of the general rulemaking procedures of Section 50.1 of the IAPA.

Therefore, the Joint Committee objects to Section 148.140 of the rules of the Department of Public Aid entitled "Hospital Services" (89 Ill. Adm. Code 148) because by stopping use of the "scope of service index" as a part of the definition of "major teaching hospital" prior to the adoption of these rules the Department has implemented this rule prior to the completion of required rulemaking procedures of the Illinois Procedure Act (IAPA) in violation of Sections 4(c), 5(a) and 5.01(c) of the IAPA.

Objection 2

The Joint Committee objects to Section 148.140 of the rules of the Department of Public Aid entitled "Hospital Services" (89 Ill. Adm. Code 148) because by deleting the scope of service index of at least 40" from the definition of "major teaching hospital" the Department has put its rules in conflict with the "State Plan Under Title XIX of the Social Security Act Medical Assistance Program" thereby exceeding its statutory authority under Section 1396 of the Social Security Act (42 U.S.C.A. 1396, 1990 Supp.).

Section 148.140 of the Department's rules provides that for outpatient hospital and clinic services, certain ambulatory surgical, specialized cardiac, and diagnostic procedures will be reimbursed at the lower of

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actual charges or the Department's designated payment maximum. The rules provide that two groupings will be used to establish the State maximums - "major teaching and other hospitals". In this rulemaking the Department has deleted from the definition of "major teaching hospital" the criteria that the hospital must have a "scope of service index of at least 40".

The "State Plan Under Title XIX of the Social Security Act Medical Assistance Program", which is compiled by the Department, currently retains the "scope of service index of at least 40" as part of its definition of major teaching hospital. Section 1396 of the Social Security Act provides that, "The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the secretary, State plans for medical assistance." Further, Section 1396a(1) requires that a State plan must provide, "that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them". Section 430.20 of the Code of Federal Regulations implements these provisions. Section 430.20 provide that for purposes of federal matching funds the effective date of a plan amendment "may be a date requested by the State if HCFA approves it."

In this situation the Department has been using the amended definitions of "major teaching hospital" for over a year without amending the State plan. The Department was asked to comment.

The Department explained that it is now going to submit the amendment to HCFA. The Department stated that it is accepted practice to submit state plan amendments for approval within the quarter the change has become effective. The Department explained that the Health Care Financing Administration (HCFA) has no objection to this practice. The quarter in question would be from July 1, 1990 to September 30, 1990. When it was brought to the Department's attention that this change was implemented prior to the beginning of the current quarter the Department cited Section 430.12(c) of the Code of Federal Regulations which states "The plan must provide that it will be amended whenever necessary to reflect... Material changes in State law, organization, or policy, or in the State's operation of the Medicaid program." The Department explained that it does not believe this change is a "material" one.

Whether the change is immaterial is subject to debate. This change allows more hospitals to get reimbursed at a higher rate. Further, if the change is immaterial why is the Department now planning to propose

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the change in the state plan to HCFA, wouldn't this be unnecessary if the change is not material?

Therefore, the Joint Committee objects to Section 148.140 of the rules of the Department of Public Aid entitled "Hospital Services" (89 Ill. Adm. Code 148) because by deleting the "scope of service index of at least 40" from the definition of "major teaching hospital" the Department has put its rules in conflict with the "State Plan Under Title XIX of the Social Security Act Medical Assistance Program" thereby exceeding its statutory authority under Section 1396 of the Social Security Act (42 U.S.C.A. 1396, 1990 Supp.).

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STATEMENT OF RECOMMENDATION

DEPARTMENT OF PUBLIC AID

Heading of Part: Hospital Services

Code Citation: 89 Ill. Adm. Code 148

Section Numbers: 148.140

Date Originally Published in Illinois Register: April 13, 1990
14 Ill. Reg. 5409

At its meeting on August 21, 1990, the Joint Committee on Administrative Rules recommended that the Department of Public Aid initiate an amendment to the state plan and notify the Committee when the amendment has been approved.

The Department should respond within 90 days of the receipt of this Statement of Recommendation.

The specific recommendation is as follows:

The Joint Committee recommends that the Department of Public Aid immediately initiate an amendment to the state plan to bring it into conformance with Department policy and that the Department notify the Joint Committee when the amendment has been approved.

Section 148.140 of the Department's rules provides that for outpatient hospital and clinic services, certain ambulatory surgical, specialized cardiac, and diagnostic procedures will be reimbursed at the lower of actual charges or the Department's designated payment maximum. The rules provide that two groupings will be used to establish the State maximums - "major teaching and other hospitals". In this rulemaking the Department has deleted from the definition of "major teaching hospital" the criteria that the hospital must have a "scope of service index of at least 40".

The "State Plan Under Title XIX of the Social Security Act Medical Assistance Program", which is compiled by the Department, currently retains the "scope of service index of at least 40" as part of its definition of major teaching hospital. Section 1396 of the Social Security Act provides that, "The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the secretary, State plans for medical assistance." Further, Section 1396a(1) requires that a State plan must provide, "that it shall be in effect in all political subdivisions of the State, and, if

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administered by them, be mandatory upon them". Section 430.20 of the Code of Federal Regulations implements these provisions. Section 430.20 provide that for purposes of federal matching funds the effective date of a plan amendment "may be a date requested by the State if HCFA approves it."

In this situation the Department has been using the amended definitions of "major teaching hospital" for over a year without amending the State plan. The Department was asked to comment.

The Department explained that it is now going to submit the amendment to HCFA. The Department stated that it is accepted practice to submit state plan amendments for approval within the quarter the change has become effective. The Department explained that the Health Care Financing Administration (HCFA) has no objection to this practice. The quarter in question would be from July 1, 1990 to September 30, 1990. When it was brought to the Department's attention that this change was implemented prior to the beginning of the current quarter the Department cited Section 430.12(c) of the Code of Federal Regulations which states "The plan must provide that it will be amended whenever necessary to reflect... Material changes in State law, organization, or policy, or in the State's operation of the Medicaid program." The Department explained that it does not believe this change is a "material" one.

Whether the change is immaterial is subject to debate. This change allows more hospitals to get reimbursed at a higher rate. Further, if the change is immaterial why is the Department now planning to propose the change in the state plan to HCFA, wouldn't this be unnecessary if the change is not material?

Therefore, the Joint Committee recommends that the Department of Public Aid immediately initiate an amendment to the state plan to bring it into conformance with Department notify the Joint Committee when it the amendment has been approved.

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JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO EMERGENCY RULEMAKING

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

Heading of Part: Personal Use of State Telephones

Code Citation: 44 Ill. Adm. Code 5030

Section Numbers:

Date Originally Published in Illinois Register: July 13, 1990
14 Ill. Reg. 11351

At its meeting on August 21, 1990, the Joint Committee on Administrative Rules objected to the above emergency rulemaking. Failure of the agency to respond within 90 days of receipt of the Statement of Objection shall constitute a refusal to amend or repeal the rule.

The specific objection is as follows:

The Joint Committee objects to the Department of Central Management Services' emergency rulemaking entitled "Personal Use of State Telephones" (44 Ill. Adm. Code 5030; 14 Ill. Reg. 11351) because any emergency situation which may exist has been created solely by failure of the Department to act in a timely fashion pursuant to the general rulemaking procedures of Section 5.01 of the Illinois Administrative Procedure Act.

The Department of Central Management Services adopted this emergency rulemaking to change its policies and procedures relating to use of State telephones as a result of Illinois Bell Telephone tariff changes. The introduction of measured local service charging the State for all local calls in downstate areas (Springfield, Peoria, Collinsville, Rockford etc.) and restructuring of measured telephone service in Chicago has required the Department to reevaluate and establish its policy regarding the reasonable use of State telephones by employees during business hours. This policy was adopted from the policy used by the U. S. General Services Administration. The policy is intended to be effective for a one year trial period after which it will be reevaluated.

On July 1, 1990, this emergency rulemaking was filed and became effective. Identical permanent rules were filed at the same time and were published in the July 13, 1990 Illinois Register. The Department was asked to explain the threat to the public interest, safety or welfare which justified the use of emergency rulemaking in this instance. The Department stated that on July 1, 1990 Illinois Bell made its measured service tariff effective in downstate areas. This tariff allows Illinois Bell

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
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to charge for local calling on a call by call basis rather than have users pay a flat rate. This charge could drastically impact the amount the State of Illinois pays for local calling. The Department stated that emergency rulemaking was necessary to immediately restrict unnecessary local calling by State employees. These types of local calls are now chargeable on an individual basis to the State. The Department offered no other explanation for its use of emergency rulemaking.

In discussions with Joint Committee staff, the Department acknowledged that measured local phone service billing had been instituted by Illinois Bell and the Department in the Chicago area for the last three to four years. The institution of measured local phone service billing for the rest of the State had been known to the Department since November of 1989, at which time the Illinois Commerce Commission had approved such billing procedures.

Section 5.02 of the Illinois Administrative Procedure Act (IAPA) defines "emergency" as "the existence of any situation which any agency finds reasonably constitutes a threat to the public interest, safety or welfare" which requires the adoption of rules on fewer days notice than is required by Section 5.01 of the IAPA.

The Department explained that consultation with Illinois Bell and affected public employees unions required months to draft, negotiate and adopt a telephone policy for State employees, thereby requiring emergency rulemaking to institute the required policy changes by the July 1, 1990 effective date for the new phone tariff billing system.

The Department's basis for emergency rulemaking in this instance is inadequate. Even if the change in policies and procedures relating to use of State telephones as a result of Illinois Bell Telephone tariff changes constituted a threat to "public interest, safety or welfare", the does not explain why rules could not have been adopted by the Department in the more than six month interval in which the new billing requirements of Illinois Bell were known to the Department.

The Department acknowledges that it has had experience with this type of billing in the Chicago service area for 3-4 years. The Department is now proposing to adopt in this rulemaking the same policy it has been using in the Chicago service area for sometime. The Department could employ its experience in that circumstance to prepare a timely administrative rulemaking to address telecommunication billings for the balance of the State. Any emergency which exists is a direct result of the Department's failure to revise its own rules in a timely fashion.

The Joint Committee has long taken the position that Section 5.02 procedures may not be used where the emergency is "agency created". This position has been supported by the Illinois Appellate Court in a previous case of agency rulemaking by the Department, Senn Park Nursing Center v. Miller (1983), 118 Ill. App. 3d 733, 455 N.E.2d 162, affirmed 104 Ill.2d 169, 470 N.E.2d 1029 (1984). In Senn Park the court stated that "it would defeat the purposes of the notice and comment procedures if an agency could dispense with such procedures by enacting an emergency rule where the 'emergency' was created by the agency's failure to follow these procedures in the first place." As in Senn Park, the Department concedes in this instance that the "emergency" was the result of an "avoidable administrative failure" to follow these procedures in the first place.

Therefore, the Joint Committee objects to the Department of Central Management Services' emergency rulemaking entitled "Personal Use of State Telephones" (44 Ill. Adm. Code 5030; 14 Ill. Reg. 11351) because any emergency situation which may exist has been created solely by failure of the Department to act in a timely fashion pursuant to the general rulemaking procedures of Section 5.01 of the Illinois Administrative Procedure Act.

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ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION TO EMERGENCY RULEMAKING

DEPARTMENT OF CORRECTIONS

Heading of Part:

Records of Committed Persons

Code Citation:

20 Ill. Adm. Code 107

Section Numbers:Date Originally Published in Illinois Register:July 27, 1990
14 Ill. Reg. 12273

At its meeting on August 21, 1990, the Joint Committee on Administrative Rules objected to the above emergency rulemaking. Failure of the agency to respond within 90 days of receipt of the Statement of Objection shall constitute a refusal to amend or repeal the rule.

The specific objection is as follows:

The Joint Committee objects to the Department of Correction's emergency rule entitled "Records of Committed Persons" because these emergency rules are incomplete due to the omission of kidnapping in the list of offenses for which meritorious good time is limited to 90 days, whereas Ill. Rev. Stat. 1989, ch. 38, par. 1006.6-3, as amended by P.A. 86-1090, effective July 13, 1990 included the kidnapping offense.

The Department of Corrections proposed this emergency rulemaking in order to conform its rules to Ill. Rev. Stat. 1989, ch. 38, par. 1006.6-3, as amended by P.A. 86-1090, effective July 13, 1990 which included the offense of kidnapping in a list of offenses for which meritorious good time is limited to 90, rather than 180 days.

In consultation with the Department, their representative advised that it was their intention to adopt an emergency rule which conformed to the statute and that kidnapping had been inadvertently omitted from the emergency rule.

The Department expressed the desire to have kidnapping included in the emergency rule. To accomplish this objective, the Department may amend the emergency rule to meet the Joint Committee's objection as set forth in 1 Ill. Adm. Code 230.800.

Therefore, the Joint Committee objects to the Department of Correction's emergency rule entitled "Records of Committed Persons" because these emergency rules are incomplete due to the omission of kidnapping in the list of offenses for which meritorious good time is limited to 90 days, Ill.

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Rev. Stat. 1989, ch. 38, par. 1006.6-3, as amended by P.A. 86-1090 effective July 13, 1990 included the kidnapping offense.

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JOINT COMMITTEE ON ADMINISTRATIVE RULES
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STATEMENT OF OBJECTION TO EMERGENCY RULEMAKING

STATE BOARD OF EDUCATION

Heading of Part: Special Education

Code Citation: 23 Ill. Adm. Code 226

Section Numbers: 226.525

Date Originally Published in Illinois Register:

July 13, 1990
14 Ill. Reg. 11364

At its meeting on August 21, 1990, the Joint Committee on Administrative Rules objected to the above emergency rulemaking. Failure of the agency to respond within 90 days of receipt of the Statement of Objection shall constitute a refusal to amend or repeal the rule.

The specific objections are as follows:

Objection 1

The Joint Committee objects to the emergency rules of the State Board of Education entitled "Special Education" (23 Ill. Adm. Code 226) because, contrary to the requirements of Section 5.02 of the Illinois Administrative Procedure Act, any emergency which may exist has been created solely by the failure of the Department to act in a timely manner to promulgate rules pursuant to the general rulemaking provisions of Section 5.01 of the Illinois Administrative Procedure Act.

The State Board of Education has promulgated this emergency rulemaking in response to written notification from the Office of Special Education Programs in the U.S. Department of Education requiring that the State Board amend its rules so that they will be in compliance with Part B of the federal Education of the Handicapped Act. A letter from the Office of Special Education Programs to the State Superintendent of Education dated October 12, 1989 states:

In communications dated September 20, September 21, and October 3, 1989, ISBE provided the Office of Special Education Programs (OSEP) with amendments to its State plan, as well as assurance that certain State regulations will be amended and in effect no later than July 1, 1990.

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Where ISBE has assured OSEP that it will amend its regulations, its State plan must also be amended so that it is consistent with the regulations. In these instances, amendments to the State plan will necessarily be made after the amendments to the regulations, but no later than July 1, 1990. ISBE must send OSEP copies of these State plan amendments upon completion.

The State Board's emergency rulemaking appeared in the July 13, 1990 Illinois Register, with an effective date of June 26, 1990.

Section 5.02 of the Illinois Administrative Procedure Act (IAPA) defines "emergency" as the existence of a situation which any agency finds "reasonably constitutes a threat to the public interest, safety, or welfare and that requires adoption of a rule on fewer days notice than is required by Section 5.02 of the IAPA." The State Board was asked to explain what emergency existed to justify the use of emergency rulemaking procedures in this instance. The State Board responded that it had been informed by the Office of Special Education Programs that receipt of federal funds for Special Education for Fiscal Year 1991 was contingent upon the State Board's amending its rules for the special education program, and that the rulemaking must be in effect no later than July 1, 1990, if funding for special education is not to be interrupted. The State Board explained that it did not have a complete understanding of the modifications required by the Office of Special Education in time to utilize the regular rulemaking procedures. The State Board further explained that its failure to have rules adopted by July 1, 1990, would jeopardize Illinois' annual federal allocation for Special Education, which amounts to approximately \$70 million, and which is used to serve approximately 235,000 students who must be guaranteed a free, appropriate public education.

The State Board's explanation that it had not developed satisfactory language to meet the requirements of the Office of Special Education Programs in time to use the regular rulemaking process conflicts with the correspondence between the Office of Special Education Programs and the State Board. A memorandum dated August 28, 1989, specifies modifications to the State Board's rules that were required to be met by July 1, 1990, in order to meet fully the requirements of Part B of the federal Education of the Handicapped Act. This memorandum mentions specific provisions of this emergency rulemaking, including the requirement that the State Board discontinue the use of the category of

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STATE BOARD OF EDUCATION
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"educationally handicapped" (Section 226.552 of this rulemaking) and a requirement for placement to be determined only after the Individualized Education Program (IEP) has been developed (Sections 226.555 and 226.560).

In addition, the emergency amendment to Section 226.525 which requires that parental consent be obtained by the school district before conducting any initial case study evaluation of the child, and deletes a requirement that parental consent be obtained before a reevaluation is conducted, was originally proposed by the State Board in an October 28, 1988 rulemaking (12 Ill. Reg. 17151). The proposed amendment to Section 226.525 was deleted during the first notice period in response to over 500 comments in opposition to this amendment. When asked why it utilized emergency rulemaking procedures to amend Section 226.525 with language that had been originally proposed using general rulemaking procedures nearly two years ago, the State Board responded that this was one of the changes required by the Office of Special Education Programs. Because the State Board was aware of the language that was satisfactory to the Office of Special Education Programs in October of 1988, and had promulgated the amendment to Section 226.525 utilizing general rulemaking procedures, it appears evident that it was not necessary for the State Board to use emergency rulemaking procedures to amend Section 226.525.

The Joint Committee has long taken the position that Section 5.02 procedures may not be used where the emergency is "agency created". This position has been supported by the Illinois Appellate Court, Third Division, in *Senn Park Nursing Center v. Miller* (1983), 188 Ill.App.3d 733, 455 N.E.2d 162, aff'd 104 Ill.2d 169, 470 N.E.2d 1040 (1984). The court stated that "[i]t would defeat the purposes of the notice and comment procedures if an agency could dispense with such procedures by enacting an emergency rule where the 'emergency' was created by the agency's failure to follow these procedures in the first place".

As in *Senn Park* it appears that, with regard to this emergency rulemaking, the "emergency" was the result of an "avoidable administrative failure" to follow the procedures for general rulemaking under Section 5.01 of the IAPA. It may be in the public interest for the State Board to comply with the Office of Special Education's requirements; however, if the State Board had taken prompt action, language that would have met the federal Office's requirements could have been adopted months ago using the general rulemaking procedures.

Therefore, the Joint Committee objects to the emergency rules of the State Board of Education entitled "Special Education" (23 Ill. Adm. Code 226) because, contrary to the requirements of Section 5.02 of the Illinois Administrative Procedure Act, any emergency which may exist has been created solely by the failure of the Department to act in a timely manner to promulgate rules pursuant to the general rulemaking provisions of Section 5.01 of the Illinois Administrative Procedure Act.

Objection 2

The Joint Committee objects to the emergency rules of the State Board of Education entitled "Special Education" (23 Ill. Adm. Code 226) because the State Board of Education lacks the statutory authority to specify that consent shall be obtained from the parent or guardian of a child before an initial evaluation, but not a reevaluation, is conducted.

The State Board of Education has promulgated this emergency rulemaking in response to written notification from the Office of Special Education Programs in the U.S. Department of Education requiring that the State Board amend its rules, so that they will be consistent with Part B of the federal Education of the Handicapped Act. The emergency rulemaking amends Section 226.525 to require that parental consent shall be obtained before conducting any initial case study evaluation of the child, and to delete a requirement that parental consent be obtained before a reevaluation is conducted.

Section 226.520 is also amended to provide:

parents or guardians of an exceptional child must be notified in writing at least ten (10) calendar days prior to the event when the local school district proposes to initiate or change the identification, case study evaluation, reevaluation, or educational placement of the child; or refuses to initiate or change the identification, case study evaluation, reevaluation, or educational placement of the child.

Section 14-8.02 of the School Code concerning identification, evaluation, and placement of children eligible to receive special education states:

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STATEMENT OF OBJECTION TO EMERGENCY RULEMAKING

STATE BOARD OF EDUCATION
(Continued Page 5)

Consent shall be obtained from the parent or guardian of a child before any evaluation is conducted.

When asked to cite its statutory authority for deleting the requirement that parental consent be obtained before a reevaluation is conducted, and for requiring only that parents or guardians be notified ten days prior to a proposed reevaluation, the State Board responded that its legal staff interprets the parental consent requirement of Section 14-8.02 of the School Code to be applicable to initial evaluations only. The State Board indicated that it believes the context of Section 14-8.02 demonstrates that consent is required only for initial evaluations, and that the silence of federal law with regard to reevaluations supports the State Board's interpretation.

The State Board has not always interpreted the provision of Section 14-8.02 of the School Code concerning parental consent for evaluations to be applicable only to initial evaluations. Section 14-8.02 of the School Code was added by Public Act 80-1403, effective August 25, 1978. The provision stating that parental consent must be obtained before any evaluation is conducted was included in P.A. 80-1403. The State Board adopted an emergency amendment to Rule 9.06 of the Special Education rules in the September 15, 1978 Illinois Register (2 Ill. Reg. No. 37, p. 29) to implement Section 14-8.02. Rule 9.02 was amended to provide:

Parental consent shall be obtained before:

1. Conducting any case study evaluation or reevaluation of the child
2. Initial placement of an exceptional child in a program providing special education and related services.

It is evident that the State Board believed that P.A. 80-1403 required consent for reevaluation. The law has not changed; however, the State Board's interpretation of the law has changed.

The State Board and the Joint Committee received extensive comments from parents of children in special education programs and advocacy groups expressing concern about the State Board's interpretation of the School Code's provision concerning parental consent. The State Board has indicated that it must revise the parental consent provision because the federal Office of Special Education has informed the State Board that

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this provision is contrary to federal requirements. Comments received from the law firm of Hager and Collins pointed out that the State Board was given two options by the Office of Special Education Programs, and that the implementation of either option would have achieved compliance with federal requirements. According to the comments, the State Board had a choice between eliminating parental consent for reevaluation, and requiring LEAs to process parental refusals to consent to the reevaluation informally and, if necessary, through a Level I due process hearing.

The State Board chose the option of eliminating parental consent for reevaluation, although this course of action causes Section 226.525 to exceed the statutory requirements of Section 14-8.02 of the School Code. A cardinal rule of statutory construction is that the intention of the legislature is to be given effect. It is generally recognized that statutory language is the best indicator of intent, and where that language is unambiguous, it must be given effect and enforced by courts as enacted. People v. Crete, 88 Ill. Dec. 355, 478 N.E.2d 846, 852 (Ill. App. 2 Dist. 1985). It is improper to interpret statutory language that is unambiguous, to annex new provisions or substitute different ones, or to read into a statute exceptions, limitations, or conditions that depart from its plain meaning. Freeman United Coal Mining Co. v. Industrial Commission, 99 Ill. 2d 487, 459 N.E.2d 1368 (1984). The language of the School Code plainly does not allow the State Board to provide, by rule, that parental consent is not required for reevaluations. The language of Section 14-8.02 was interpreted by the State Board to include initial evaluations and reevaluations when the language was enacted. Because this statutory language is unambiguous and has not been amended, it is improper for the State Board through the rulemaking process to alter the scope of the law.

Therefore, the Joint Committee objects to the emergency rules of the State Board of Education entitled "Special Education" (23 Ill. Adm. Code 226) because the State Board of Education lacks the statutory authority to specify that consent shall be obtained from the parent or guardian of a child before an initial evaluation, but not a reevaluation, is conducted.

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JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO EMERGENCY RULEMAKING

OFFICE OF THE STATE FIRE MARSHAL

Heading of Part: Fire Equipment Distributor and Employee Licenses

Code Citation: 41 Ill. Adm. Code 251

Section Numbers: 251.10 251.40 251.70 251.Appendix A
251.20 251.50 251.Illustration A
251.30 251.60 251.Illustration B

Date Originally Published in Illinois Register: May 25, 1990
14 Ill. Reg. 8194

At its meeting on August 21, 1990, the Joint Committee on Administrative Rules objected to the above emergency rulemaking. Failure of the agency to respond within 90 days of receipt of the Statement of Objection shall constitute a refusal to amend or repeal the rule.

The specific objection is as follows:

The Joint Committee objects to the Office of the State Fire Marshal's emergency rulemaking entitled "Fire Equipment Distributor and Employee Licenses" (41 Ill. Adm. Code 251) because any emergency that may exist has been created solely by the failure of the Office to adopt permanent rules pursuant to the provisions of Section 5.01 of the Illinois Administrative Procedure Act.

The Office of the State Fire Marshal has adopted emergency rules to set forth licensing requirements for fire equipment distributors and their employees. The Office's emergency rule became effective May 14, 1990, and was published in the May 25, 1990 Illinois Register. The rule implements the Fire Equipment Distributor and Employee Regulation Act, which was approved January 12, 1989, and became effective July 1, 1989. The Office published similar proposed rules entitled "Fire Equipment Distributor and Employee Standards" (41 Ill. Adm. Code 250) in the April 14, 1990 Illinois Register.

Section 5.02 of the Illinois Administrative Procedure Act provides that "emergency" means the existence of any situation which any agency finds reasonably constitutes a threat to the public interest, safety or welfare. The Office was asked to explain the threat to the public interest, safety, or welfare which justified the use of emergency rulemaking and why this situation required adoption of these rules upon fewer days notice than is required by Section 5.01 of the Illinois Administrative Procedure Act. The Office explained that Section 10 of the Fire

JOINT COMMITTEE ON ADMINISTRATIVE RULES
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STATEMENT OF OBJECTION TO EMERGENCY RULEMAKING

OFFICE OF THE STATE FIRE MARSHAL
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Equipment Distributor and Employee Regulation Act states that "(o)n or after April 1, 1990, no person shall engage in any activity described in this Section without first applying for and obtaining a license....". The Office stated that it was necessary to adopt rules for licensure of fire equipment distributors and their employees as emergency rules due to the April 1, 1990 licensing deadline. The Office stated that it notified the affected parties with a mailing including the emergency rule and licensure application forms.

The Office's reason for emergency rulemaking is not an emergency as defined by Section 5.02 of the Illinois Administrative Procedure Act. The Joint Committee has long taken the position that Section 5.02 procedures may not be used where the emergency is "agency created". This position has been supported by the Illinois Appellate Court, Third Division, in *Senn Park Nursing Center v. Miller* (1983), 118 Ill.App.3d 733, 455 N.E.2d 162, aff'd 104 Ill.2d 169, 470 N.E.2d 1040 (1984). The court stated that "it would defeat the purposes of the notice and comment procedures if any agency could dispense with such procedures by enacting an emergency rule where the 'emergency' was created by the agency's failure to follow these procedures in the first place." The Public Act enacting the Fire Equipment Distributor Employee Regulation Act was approved January 12, 1989 and became effective July 1, 1989. The Office did not propose permanent rules, which include licensing provisions, until April 13, 1990, and did not adopt these emergency rules until May 14, 1990, a full month and a half after the April 1, 1990 deadline set by statute.

Therefore, the Joint Committee objects to the Office of the State Fire Marshal's emergency rulemaking entitled "Fire Equipment Distributor and Employee Licenses" (41 Ill. Adm. Code 251) because any emergency that may exist has been created solely by the failure of the Office to adopt permanent rules pursuant to the provisions of Section 5.01 of the Illinois Administrative Procedure Act.

88508194

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO EMERGENCY RULEMAKING

DEPARTMENT OF PUBLIC AID

Heading of Part: Medical Payment

Code Citation: 89 Ill. Adm. Code 140

Section Numbers: 140.529

Date Originally Published in Illinois Register: July 20, 1990
14 Ill. Reg. 12082

At its meeting on August 21, 1990, the Joint Committee on Administrative Rules objected to the above emergency rulemaking. Failure of the agency to respond within 90 days of receipt of the Statement of Objection shall constitute a refusal to amend or repeal the rule.

The specific objection is as follows:

The Joint Committee objects to Section 140.529 of the rules of the Department of Public Aid entitled "Medical Payment" (89 Ill. Adm. Code 140) because by allowing nursing facilities to request and receive interim QUIP reviews since February, 1990 the Department has implemented this rule prior to the completion of required rulemaking procedures of the Illinois Administrative Procedure Act (IAPA) in violation of Sections 4(c), 5(a) and 5.02 of the IAPA.

The emergency amendments to 89 Ill. Adm. Code 140 provide that nursing facilities may request Quality Incentive Program (QUIP) assessments outside the normally scheduled annual assessment. Facilities who meet the QUIP criteria are then paid a higher rate.

These emergency rules became effective July 5, 1990. However, the Department admitted that it has been allowing facilities to request and receive interim assessments since February 1990.

The IAPA prohibits implementing these rules prior to their adoption in accordance with the rulemaking procedures. Section 4(c) of the IAPA states that "[n]o agency rule is effective against any person or party, nor may it be invoked by the agency for any purpose until it has been made available for public inspection and filed with the Secretary of State as required by this Act." In addition, Section 5(a) of the IAPA provides that "prior to the adoption, amendment or repeal of any rule, each agency shall accomplish the actions required by Section 5.01, 5.02 and 5.03, whichever is applicable" (emphasis added). In this instance the Department chose to implement its rules under the emergency

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STATEMENT OF OBJECTION TO EMERGENCY RULEMAKING

DEPARTMENT OF PUBLIC AID

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rulemaking procedure of Section 5.02. The Department, however, did not comply with Section 5.02 which prescribes that a rule may not be effective until its adoption. Section 5.02 of the IAPA states that "an emergency rule becomes effective immediately upon filing..., or at a stated date less than 10 days thereafter." The Department has failed to comply with the requirements of Sections 4(c), 5(a) and 5.02 prior to invoking the rule. Furthermore, Section 5(b) invalidates agency actions to adopt, amend, or repeal a rule which are not taken in compliance with the IAPA's procedural requirements.

This is not the first time that the Joint Committee has been presented with the issue of rules being invoked prior to adoption in accordance with the IAPA's rulemaking procedures. The Joint Committee has consistently issued objections to agencies which implement amendments prior to adoption of these rules under the general rulemaking procedures of Section 5.01 of the IAPA. As previously stated, the Department admits implementing the change in QUIP assessments request prior to the conclusion of the emergency rulemaking procedures of Section 5.02 of the IAPA.

Therefore, the Joint Committee objects to Section 140.529 of the rules of the Department of Public Aid entitled "Medical Payment" (89 Ill. Adm. Code 140) because by allowing nursing facilities to request and receive interim QUIP reviews since February, 1990 the Department has implemented this rule prior to the completion of required rulemaking procedures of the Illinois Administrative Procedure Act (IAPA) in violation of Sections 4(c), 5(a) and 5.02 of the IAPA.

88512082

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of September 4, 1990 through September 7, 1990, and have been scheduled for review by the Committee at its October 11, 1990 meeting. Other items not contained in this published list may also be considered by the Joint Committee at its October meeting. Members of the public wishing to express their views with respect to a proposed rule should submit written comments to the Joint Committee at the following address: Joint Committee on Administrative Rules, 509 South Sixth Street, Room 500, Springfield, IL 62701.

Second Notice Expires	Agency and Rule	Start of First Notice	Scheduled for Consideration by JCAR
10/19/90	Department of Employment Security, Claimant's Active Search for Work (56 Ill. Adm. Code 2865)	6/29/90 14 Ill. Reg. 10215	October 11, 1990
10/19/90	Department of Nuclear Safety, Registration of Radon Detection and Mitigation Services (32 Ill. Adm. Code 420)	12/8/89 13 Ill. Reg. 19034	October 11, 1990
10/19/90	Department of Public Health, Program Content and Guidelines for Title X Family Planning Services (77 Ill. Adm. Code 635)	5/25/90 14 Ill. Reg. 7858	October 11, 1990
10/22/90	Teachers' Retirement System of the State of Illinois, The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)	7/20/90 14 Ill. Reg. 11742	October 11, 1990
10/22/90	Department of Public Aid, Medical Payment (89 Ill. Adm. Code 140)	3/2/90 14 Ill. Reg. 3019	October 11, 1990
10/22/90	Department of Commerce and Community Affairs, Illinois Public Infrastructure Loan and Grant Program (14 Ill. Adm. Code 610)	5/18/90 14 Ill. Reg. 7300	October 11, 1990

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSECOND NOTICES RECEIVED
(page 2)

Second Notice Expires	Agency and Rule	Start of First Notice	Scheduled for Consideration by JCAR
10/22/90	Department of Commerce and Community Affairs, Illinois Large Business Development Program (14 Ill. Adm. Code 590)	5/18/90 14 Ill. Reg. 7291	October 11, 1990
10/22/90	Department of Mines and Minerals, The Illinois Oil and Gas Act (62 Ill. Adm. Code 240)	6/29/90 14 Ill. Reg. 10288	October 11, 1990
10/22/90	Department of Commerce and Community Affairs, Uniform Fiscal and Administrative Standards for the Job Training Partnership Act (56 Ill. Adm. Code 2630)	5/18/90 14 Ill. Reg. 7312	October 11, 1990

PROCLAMATION

90-347

VOCATIONAL STUDENT ORGANIZATION WEEK
(Second Revised)

Whereas, the proper education of today's youth is a concern of all Americans; and

Whereas, vocational student organizations are dedicated to the advancement of proper education, training, and development of America's youth; and

Whereas, for the past 13 years, groups such as the Illinois Coordinating Council for Vocational Student Organizations have advanced the awareness of the importance of vocational student organizations as an integral part of the educational curriculum; and

Whereas, vocational student organizations in Illinois include Business Professionals of America, Distributive Education Clubs of America (DECA), Future Business Leaders of America (FBLA), Illinois Association FFA (FFA), Future Homemakers of America/Home Economics Related Occupations (FHA/HERO), Health Occupations Students of America (HOSA), Postsecondary Agricultural Students (PAS), Phi Beta Lambda (PBL), Technology Student Association (TSA), and Vocational Industrial Clubs of America (VICA);

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim September 30-October 6, 1990, as VOCATIONAL STUDENT ORGANIZATION WEEK in Illinois in recognition of the contributions these organizations have made to the education of our youth.

Issued by the Governor August 31, 1990.

Filed with the Secretary of State September 10, 1990.

90-409

IRON OVERLOAD DISEASES AWARENESS WEEK

Whereas, one Illinois resident in 200 is estimated to carry double genes that cause an accumulation of excessive iron stores, resulting in disease of the liver, the heart, the sex glands, the pancreas, and the joints, with ultimate fatality if untreated; and

Whereas, our state's carrier rate of the single hemochromatosis gene is estimated to be 26 in 200, and many doctors and their patients are unaware of this high incidence; and

Whereas, Illinois residents are more likely to suffer iron overload than to be affected by multiple sclerosis, muscular dystrophy, Parkinson's disease, or cystic fibrosis combined; and

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim September 9-15, 1990, as IRON OVERLOAD DISEASES AWARENESS WEEK in Illinois and urge all citizens to increase their awareness of this common but underdiagnosed

condition to protect their health.

Issued by the Governor August 28, 1990.

Filed with the Secretary of State September 10, 1990.

90-410

HENRY GEORGE DAY

Whereas, September 2, 1990, will mark the 151st anniversary of the birth of Henry George--author, orator, and economist; and Whereas, George's book, "Progress and Poverty," recast and synthesized classical political economy and has been studied throughout the United States and the free world for five generations; and

Whereas, a need exists to review George's teaching; and Whereas, our nation faces great economic and environmental problems stemming from a general disrespect for land and resources;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim September 2, 1990, as HENRY GEORGE DAY in Illinois.

Issued by the Governor August 30, 1990.

Filed with the Secretary of State September 10, 1990.

90-411

UNION LABEL WEEK

Whereas, organized labor has always promoted the dignity and rights of all American workers; and

Whereas, hundreds of thousands of American jobs have been lost to foreign imports in the name of so called "free trade"; and

Whereas, it is more important than ever to buy the products and services produced in America by American men and women; and Whereas, products and services identified by a Union Label, Shop Card, Store Card, or Service Button are guaranteed to be made in the USA;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim September 3-8, 1990, as UNION LABEL WEEK in Illinois in recognition and in honor of these distinguished emblems which signify the commitment to quality and dignity in the American workplace.

Issued by the Governor August 30, 1990.

Filed with the Secretary of State September 10, 1990.

90-412

WATER QUALITY AWARENESS WEEK

Whereas, Illinoisans should learn more about the role of local wastewater facilities and what local communities are doing

⁹⁰to protect water resources in Illinois; and

Whereas, a number of organizations are involved in the proper treatment and disposal of municipal and industrial wastewaters in the State of Illinois. The organizations include the Central States Water Pollution Control Association, the Illinois Water Pollution Control Association, the Illinois Association of Water Pollution Control Operators, the Illinois Association of Wastewater Agencies, the Lake Michigan Water Analysts, the Northern Illinois Water Analysts, and the Industrial Water and Waste Sewage Group; and

Whereas, members of these organizations plan to provide citizens with the opportunity to learn more about wastewater facilities by offering treatment plant tours and informative material and generating media coverage;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim September 23-29, 1990, as WATER QUALITY AWARENESS WEEK in Illinois and urge Illinois citizens to seek a better understanding of water treatment facilities.

Issued by the Governor August 30, 1990.

Filed with the Secretary of State September 10, 1990.

90-413

CHILD CARE WORKER WEEK

Whereas, professional child care workers provide, directly or indirectly, for the nurturance, treatment, and support of children and youth in treatment centers, hospitals, institutions, day care programs, community centers, schools, and homes; and

Whereas, they are dedicated to taking an active, responsible role in meeting the regular and special needs of the children they care for; and

Whereas, in Illinois, the more than 5,000 child care workers contribute not only to the well-being of their charges, but also to the economy and welfare of the entire State of Illinois;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim September 21-28, 1990, as CHILD CARE WORKER WEEK in recognition of their Midwest Regional Child and Youth Care Conference taking place in Illinois at this time.

Issued by the Governor August 31, 1990.

Filed with the Secretary of State September 10, 1990.

90-414

SPINAL HEALTH CARE MONTH

Whereas, doctors of chiropractic throughout the United States are active during October in a community health program to improve the spinal health of our citizens; and

Whereas, spinal integrity makes it possible for all the organs in the body to function more efficiently, and spinal health is essential to proper growth and development; and

Whereas, Illinoisans should become more aware of their spinal health and receive periodic examinations; and

Whereas, the chiropractic science and the doctors who practice it have contributed greatly to the better health of our citizenry by providing this specialized health care;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 1990 as SPINAL HEALTH CARE MONTH in Illinois.

Issued by the Governor August 31, 1990.

Filed with the Secretary of State September 10, 1990.

90-415

CONSTITUTION WEEK

Whereas, our founding fathers, in order to secure the blessings of liberty for themselves and their posterity, did ordain and establish a Constitution for the United States of America; and

Whereas, it is of the greatest importance that all citizens fully understand the provisions and principles contained in the Constitution in order to support it, preserve it, and defend it against encroachment; and

Whereas, the bicentennial of the signing of the Constitution provided a historic opportunity for all Americans to learn about and recall achievements of our founders, and to reflect on the rights and privileges of citizenship as well as its attendant responsibilities; and

Whereas, the independence guaranteed to the American people by the Constitution should be celebrated by appropriate ceremonies and activities during Constitution Week;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim September 17-23, 1990, as CONSTITUTION WEEK in Illinois and urge all citizens to acknowledge the importance of this document upon which our government was built.

Issued by the Governor September 4, 1990.

Filed with the Secretary of State September 10, 1990.

90-416

ILLINOIS COMMUNITY COLLEGES STUDENT ACTIVITIES WEEK

Whereas, Illinois Community Colleges Student Activities Professionals established the Illinois Community College Student Activities Association in 1978 to serve the needs of the community college populations and student activities professionals; and

Whereas, student activities programs are instrumental in implementing the philosophy of student development, demonstrating that learning involves not only the intellect, but the emotional, social, physical, and ethical development of the college student; and

90 Whereas, student activities programs strive to meet community cultural and entertainment needs, fostering community awareness and establishing a foundation for community support; Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 1-7, 1990, as ILLINOIS COMMUNITY COLLEGES STUDENT ACTIVITIES WEEK in Illinois in recognition of the contributions student activities programs make to community college students and community members of the State of Illinois. Issued by the Governor September 4, 1990. Filed with the Secretary of State September 10, 1990.

90-417

HOLY NAME OF MARY CHURCH CONGRATULATED

Whereas, in 1940 the Holy Name of Mary Church began holding services in the basement of Holy Name of Mary School and held services there until a new building was erected in 1971; and Whereas, Holy Name of Mary Church is one of the leading churches in the Morgan Park/Beverly community; and Whereas, its goals include assisting those less fortunate in its own community and supporting the construction of a Holy Name of Mary School in South Africa; and Whereas, Father Anthony Vader is pastor of the Holy Name of Mary Church; and Whereas, Holy Name of Mary Church will celebrate its golden anniversary with a banquet September 15 and a special mass September 16; Therefore, I, James R. Thompson, Governor of the State of Illinois, congratulate HOLY NAME OF MARY CHURCH on its 50th anniversary. Issued by the Governor September 5, 1990. Filed with the Secretary of State September 10, 1990.

90-418

TEEN CHALLENGE DAY

Whereas, Teen Challenge International is a service organization that is successful in the rehabilitation of many drug and alcohol abusers; and Whereas, Teen Challenge of Chicago is an arm of the international organization and has actively served Chicago since 1963; and Whereas, a survey conducted by the National Institute of Drug Abuse indicates Teen Challenge has a 70 percent cure rate nationally; and Whereas, Teen Challenge of Chicago will hold its annual fund-raising banquet October 8, 1990; Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 8, 1990, as TEEN CHALLENGE DAY in Illinois and congratulate Teen Challenge on its worthwhile

efforts.

Issued by the Governor September 5, 1990.
Filed with the Secretary of State September 10, 1990.

90-419

HISPANIC HERITAGE WEEK

Whereas, Hispanic Americans have immigrated to the United States of America from all Latin American countries, all having varied ethnic backgrounds with the common dream of living in a land free of political persecution and turmoil and rich in economic opportunities; and

Whereas, while adapting to their new society, Hispanics preserve and transmit their culture to the citizens of Illinois, strengthening and adding new dimensions to the culture of their adopted home. Hispanic Americans have contributed to our state's progress with their hard work and determination to succeed; and Whereas, together with all those who journeyed to this land in pursuit of freedom and liberty, Hispanic Americans are a part of creating the ideal American Republic, continually striving for full participation and equal opportunity in all walks of life; Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim September 10-16, 1990, as HISPANIC HERITAGE WEEK in Illinois in recognition of the Hispanic individuals, families, and communities who enrich our state.

Issued by the Governor September 6, 1990.
Filed with the Secretary of State September 10, 1990.

90-420

IRA S. LOEB DAY

Whereas, Ira S. Loeb, a New York City native, earned a bachelor's degree from Brooklyn College in 1950 and completed a one-year graduate study program at the University of Texas in 1951; and

Whereas, he served with the 87th Infantry Division in Europe and was awarded the Purple Heart for wounds he suffered in the Ardennes Forest; and

Whereas, Ira S. Loeb began his federal career as a civilian employee of the Air Force in San Marcos, Texas, in 1951 and held several positions with the Air Force, including director of Civilian Personnel for the 15th Air Force Strategic Command; and

Whereas, Ira S. Loeb graduated from the Internal Revenue Service Executive Development Program and has served for the IRS as assistant district director in Boston, Massachusetts; Oklahoma City, Oklahoma; and Jacksonville, Florida, and was appointed district director in Springfield, Illinois, in September 1974; and

Whereas, Loeb has earned numerous awards during his 41-year federal career, including three Assistant Commissioner Awards,

DEPARTMENT OF PUBLIC AID

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE
ON ADMINISTRATIVE RULES

- 1) The Heading of the Part: HOSPITAL SERVICES
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: 148.140
Action: Refusal

- 4) Date Notice of Proposed Amendment Published in the Register:
April 13, 1990 (14 Ill. Reg. 5409)

- 5) Date JCAR Statement of Objection Published in the Register:
September 21, 1990 (14 Ill. Reg. 15614)

- 6) Summary of Action Taken by the Agency: The Joint Committee objected to this rulemaking on the basis that the Department had implemented this policy prior to rulemaking. The Department repeatedly explained to JCAR that this rulemaking was intended as a clarification. A similar rulemaking had been promulgated in the recent past, but due to an oversight, this rule was inadvertently not changed. The Department can only conclude that its good faith attempts to rectify errors and maintain accurate rules have been ignored. Accordingly, the Department must respectfully refuse to meet this objection.

JCAR also objected to this rulemaking on the basis that the Department has violated its statutory authority. In its objection JCAR contends that the Department has put its rules in conflict with the "State Plan under Title XIX of the Social Security Act". JCAR has misinterpreted federal law and misunderstood Department policy. Federal regulations only require amendments to the State Plan be submitted prior to implementation when the Department makes "material" changes in its reimbursement policies. 42 CFR 430.12. This change is not material for purposes of federal requirements. JCAR's contention that this rulemaking means more hospitals will now get reimbursed at a higher rate is simply not true. The Department must respectfully refuse to accept this objection.

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the highest awards of recognition given to IRS executives; and Whereas, Loeb will retire from his district director position September 29, 1990;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim September 29, 1990, as IRA S. LOEB DAY in Illinois in recognition of his accomplishments in the administration of the federal tax system and his contributions to the tax system of our state.

Issued by the Governor September 6, 1990.
Filed with the Secretary of State September 10, 1990.

90-421
KOREAN HARVEST DAY

Whereas, September 8, 1990, is the celebration of Korean Harvest Day ("Chu-Shuk"); and

Whereas, Korean Americans constitute a strong and vibrant community in Illinois; and

Whereas, Korean Americans have contributed a wealth of energy, talents, and resources toward the enrichment of our cultural heritage; and

Whereas, through their commitment to hard work and social responsibility, the Korean American community has helped build the diversity and prosperity of our state; and

Whereas, Korean Americans have become an integral part of the unique mosaic of American society;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim September 8, 1990, as KOREAN HARVEST DAY in Illinois, and I urge all citizens to join the celebration of this day.

Issued by the Governor September 6, 1990.
Filed with the Secretary of State September 10, 1990.

ACTION CODES	
JCAR - Joint Committee on Administrative Rules	
A - Adopted Rule	P - Proposed Rule
AR - Adopted Repealer	PF - Prohibited Filing Ordered by JCAR
C - Notice of Corrections	PP - Peremptory or Court ordered Rules
CC - Codification Changes	PR - Proposed Repealer
E - Emergency Rule	R - Refusal to meet JCAR objection
ER - Emergency Repealer	RC - Statement of Recommendation
M - Modification to meet JCAR objections	S - Suspension ordered by JCAR
O - JCAR Statement of Objections	W - Withdrawal to meet JCAR objections

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8 Ill. Adm. Code 285	III. Grain Insurance Act (P-18048/85; A-6818)
TITLE	PART
	ACTION CODE
	PAGE NUMBER
	PREVIOUS VOLUME
	ACTION CODE
	PAGE NUMBER
	ACTION CODE

ALL RULES ARE LISTED BY PART NUMBER AND HEADING ONLY. (FOR ACTION ON SPECIFIC SECTIONS, PLEASE REFER TO THE SECTIONS AFFECTED INDEX.) IF THERE ARE ANY QUESTIONS, PLEASE CONTACT THE ADMINISTRATIVE CODE DIVISION AT (217) 782-9786.

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89 Ill. Adm. Code 230	Older Americans Act Programs (P-14499/89; A-2308)

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8 Ill. Adm. Code 110	Animal Diagnostic Laboratory Act (P-15911/89; A-1907) (P-16861/89; A-3416) (P-8759; A-15304)
8 Ill. Adm. Code 75	Bovine Brucellosis (P-15915/89; A-1911)
8 Ill. Adm. Code 85	Diseased Animals (P-15926/89; A-1919) (P-8768; A-15313)
8 Ill. Adm. Code 80	III. Bovine Tuberculosis Eradication Act (P-15938/89; A-1931)
8 Ill. Adm. Code 115	III. Pseudorabies Control Act (P-15942/89; A-1935) (P-19329/89; A-5065) (P-3773; A-15318)
8 Ill. Adm. Code 270	III. State Fair & DuQuoin State Fair, Non-Fair Space Rental & the General Operation of the State Fairgrounds (P-10965)
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8 Ill. Adm. Code 45	Marketing Center (Livestock) (P-15956/89; A-1949)
8 Ill. Adm. Code 125	Meat & Poultry Inspection Act (P-16625/89; A-3424) (PP-4953) (PP-11401) (PP-13355)
8 Ill. Adm. Code 850	Motor Fuel Standards Act (P-19837/89; A-5072)
2 Ill. Adm. Code 700	Organizational Chart, Description, Rulemaking Procedure, & Programs (A-584) (A-4093) (A-9009)
8 Ill. Adm. Code 5	Standardization of Agriculture Products (P-3711; A-10308)
8 Ill. Adm. Code 100	Swine Brucellosis (P-15960/89; A-1953)

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86 Ill. Adm. Code 2000	III. Estate & Generation - Skipping Transfer Tax Act (P-4281)
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74 Ill. Adm. Code 420	Code of Regulations (P-1541; A-15327)
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38 Ill. Adm. Code 397	Corporate Fiduciary Receivership Account (P-15181)
38 Ill. Adm. Code 396	Corporate Fiduciary Subsidiaries (P-2985)
38 Ill. Adm. Code 356	Reimbursement to Banks & Corporate Fiduciaries for Financial Records (P-3303; A-11183)
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80 Ill. Adm. Code 5010	Marking, Inventory, Transfer & Disposal of State-Owned Personal Property (P-8271) (E-8714; O-13033)
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89 Ill. Adm. Code 300	Reports of Child Abuse & Neglect (P-20159/89; C-2684) (E-11356) (P-11423)
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14 Ill. Adm. Code 510	III. Promotion Act (P-13072) (E-13298)
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- 56 Ill. Adm. Code 2630 Uniform Fiscal & Administrative Standards for the Job Training Partnership Act (P-5310; A-13984) (P-7312)

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- 92 Ill. Adm. Code 1415 Freight Bills & Bills of Lading or Other Forms (P-19339/89; A-8583)
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The Sections Affected Index lists, by Title, each Section of a codified Part on which rulemaking activity has occurred in this volume of the Register and is divided into two parts: the first lists the Sections on which rulemaking activity occurred in the previous issues of this volume year; the second lists the Sections on which rulemaking activity occurred in this issue of the Register. (The headings at the top of each page indicate the two parts: the first part shows the previous issue numbers inclusively and the date of the last published issue; the second lists the current issue number and date.) The columns in both parts indicate the type of rulemaking activity and the action taken along with the page number on which the first page of the notice of rulemaking activity appeared. If a Section on which action is being taken in the current volume (calendar year) of the Register was proposed in a previous volume, the last two digits of the previous volume's year appear immediately after the page number separated by a slash. (e.g. 1 Ill. Adm. Code 100.280 was proposed last year and adopted this year. The action entry reads: (P-8577/89; A-724) The codes for both columns are listed below. For a complete listing of the Titles of the *Illinois Administrative Code*, please refer to 1 Ill. Adm. Code 100.140 or contact the Administrative Code Division.

TYPE OF RULEMAKING		ACTION CODES	
am	= amendment to existing Section	A	= Adopted rule
cc	= codification changes	C	= Correction
n	= new Section	CC	= Codification Changes
r	= repeal of existing Section	E	= Emergency rule
rc	= recodified	F	= Failure to Remedy Objections
#	= renumbered	M	= Modification
		O	= ICAR Objection
		P	= Proposed rule
		PF	= Prohibited Filing
		PP	= Peremptory rule
		R	= Refusal to Modify or Withdraw
		RC	= ICAR Recommendation
		S	= Suspended rule
		W	= Withdrawal of Proposed rule

TITLE 14 (CONT'D)					
130.510	ann	(P-13742/89; A-884)	130.1126	n	(P-16302/89; A-5188)
130.510	ann	(P-13742/89; A-884)	130.1127	n	(P-16302/89; A-5188)
130.530	n	(P-13742/89; A-884)	130.1128	n	(P-16302/89; A-5188)
130.532	ann	(P-16302/89; A-5188)	130.1129	n	(P-16302/89; A-5188)
130.533	ann	(P-16302/89; A-5188)	130.1520	n	(P-16302/89; A-5188)
130.550	ann	(P-13742/89; A-884)	130.Ap.A	n	(P-13742/89; A-884)
130.610	ann	(P-13742/89; A-884)	130.Ap.B	n	(P-13742/89; A-884)
130.630	n	(P-13742/89; A-884)	130.Ap.C	n	(P-13742/89; A-884)
130.650	ann	(P-13742/89; A-884)	130.Ap.D	n	(P-13742/89; A-884)
130.700	ann	(P-16302/89; A-5188)	170.20	n	(P-14824/89; A-1480)
130.701	n	(P-16302/89; A-5188)	510.110	n	(P-13072) (E-13298)
130.710	ann	(P-16302/89; A-5188)	510.120	n	(P-13072) (E-13298)
130.715	n	(P-13742/89; A-884)	510.130	n	(P-13072) (E-13298)
130.730	n	(P-13742/89; A-884)	510.140	n	(P-13072) (E-13298)
130.750	n	(P-13742/89; A-884)	510.150	n	(P-13072) (E-13298)
130.805	n	(P-16302/89; A-5188)	510.160	n	(P-13072) (E-13298)
130.810	ann	(P-13742/89; A-884)	510.170	n	(P-13072) (E-13298)
130.820	ann	(P-13742/89; A-884)	510.175	n	(P-13072) (E-13298)
130.821	ann	(P-13742/89; A-884)	510.180	n	(P-13072) (E-13298)
130.822	ann	(P-16302/89; A-5188)	510.185	n	(P-13072) (E-13298)
130.823	n	(P-16302/89; A-5188)	510.190	n	(P-13072) (E-13298)
130.824	ann	(P-16302/89; A-5188)	510.195	n	(P-13072) (E-13298)
130.826	ann	(P-13742/89; A-884)	510.200	n	(P-13072) (E-13298)
130.827	ann	(P-16302/89; A-5188)	510.205	n	(P-13072) (E-13298)
130.828	n	(P-16302/89; A-5188)	520.315	n	(P-13060)
130.829	n	(P-16302/89; A-5188)	520.740	ann	(P-13060)
130.832	ann	(P-16302/89; A-5188)	520.800	r	(P-13060)
130.840	ann	(P-13742/89; A-884)	520.810	r	(P-13060)
130.841	ann	(P-13742/89; A-884)	520.820	r	(P-13060)
130.842	ann	(P-16302/89; A-5188)	520.830	n	(P-13060)
130.844	ann	(P-16302/89; A-5188)	520.900	ann	(P-15975/89; A-3445)
130.846	ann	(P-13742/89; A-884)	520.910	ann	(P-15975/89; A-3445)
130.847	n	(P-13742/89; A-884)	520.930	ann	(P-13060)
130.852	ann	(P-16302/89; A-5188)	520.930	ann	(P-15975/89; A-3445)
130.860	n	(P-13742/89; A-884)	520.1010	ann	(P-13060)
130.1100	ann	(P-16302/89; A-5188)	525.10	n	(P-13356/89; A-1968)
130.1101	ann	(P-16302/89; A-5188)	525.20	n	(P-13356/89; A-1968)
130.1102	ann	(P-16302/89; A-5188)	525.30	n	(P-13356/89; A-1968)
130.1103	ann	(P-16302/89; A-5188)	525.40	n	(P-13356/89; A-1968)
130.1104	n	(P-16302/89; A-5188)	525.50	n	(P-13356/89; A-1968)
130.1105	n	(P-16302/89; A-5188)	525.60	n	(P-13356/89; A-1968)
130.1106	n	(P-16302/89; A-5188)	525.70	n	(P-13356/89; A-1968)
130.1107	n	(P-16302/89; A-5188)	525.80	n	(P-13356/89; A-1968)
130.1108	n	(P-16302/89; A-5188)	540.110	n	(P-11022)
130.1109	n	(P-16302/89; A-5188)	540.120	n	(P-11022)
130.1110	#	(P-16302/89; A-5188)	540.130	n	(P-11022)
130.1110	n	(P-16302/89; A-5188)	540.140	n	(P-11022)
130.1111	#	(P-16302/89; A-5188)	540.150	n	(P-11022)
130.1111	ann	(P-16302/89; A-5188)	540.160	n	(P-11022)
130.1112	#	(P-16302/89; A-5188)	540.170	n	(P-11022)
130.1112	n	(P-16302/89; A-5188)	540.180	n	(P-11022)
130.1113	ann	(P-16302/89; A-5188)	540.190	n	(P-11022)
130.1114	n	(P-16302/89; A-5188)	545.10	n	(P-19336/89; A-9016)
130.1115	n	(P-16302/89; A-5188)	545.20	n	(P-19336/89; A-9016)
130.1116	n	(P-16302/89; A-5188)	545.25	n	(P-19336/89; A-9016)
130.1117	n	(P-16302/89; A-5188)	545.30	n	(P-19336/89; A-9016)
130.1118	n	(P-16302/89; A-5188)	545.40	n	(P-19336/89; A-9016)
130.1119	n	(P-16302/89; A-5188)	545.50	n	(P-19336/89; A-9016)
130.1120	n	(P-16302/89; A-5188)	545.60	n	(P-19336/89; A-9016)
130.1121	ann	(P-16302/89; A-5188)	545.70	n	(P-19336/89; A-9016)
130.1122	ann	(P-16302/89; A-5188)	545.110	n	(P-19336/89; A-9016)
130.1123	ann	(P-16302/89; A-5188)	545.120	n	(P-19336/89; A-9016)
130.1124	n	(P-16302/89; A-5188)	545.130	n	(P-19336/89; A-9016)
130.1125	n	(P-16302/89; A-5188)	545.140	n	(P-19336/89; A-9016)

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545.170	n
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545.190	n
545.195	n
545.210	n
545.215	n
545.220	n
545.225	n
545.230	n
545.235	n
545.240	n
545.245	n
545.250	n
545.255	n
545.260	n
545.265	n
545.270	n
545.275	n
545.280	n
545.285	n
545.290	n
545.310	n
545.315	n
545.320	n
545.325	n
545.330	n
545.335	n
545.340	n
545.345	n
545.350	n
545.355	n
545.360	n
545.365	n
545.410	n
545.420	n
545.430	n
545.440	n
545.450	n
545.460	n
545.470	n
545.480	n
545.490	n
545.495	n
550.10	an
550.20	an
550.30	an
550.35	n
550.35	an
550.40	an
550.50	an
550.60	an
590.25	an
590.30	an
590.92	an
610.20	an
610.25	an
610.30	an
610.40	an
610.60	an
640.10	n

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130.70	am (P-4340; A-12402)
130.80	am (P-4340; A-12402)
130.90	am (P-4340; A-12402)
130.100	am (P-4340; A-12402)
130.130	am (P-4340; A-12402)
210.30	am (P-16892/89; A-2013)
210.35	am (P-16892/89; A-2013)
510.10	am (P-3757; A-14762)
520.30	am (P-3789; A-10811)
530.10	am (P-3720; A-10775)
530.20	am (P-3720; A-10775)
530.80	am (P-3720; A-10775)
530.90	am (P-3720; A-10775)
530.100	am (P-3720; A-10775)
530.105	am (P-3720; A-10775)
530.110	am (P-3720; A-10775)
530.120	am (P-3720; A-10775)
550.10	am (P-3776; A-10798)
550.20	am (P-15509/89; A-638) (P-3776; A-10798)
550.30	am (P-3776; A-10798)
570.20	am (P-3764; A-14775) (P-13108)
570.30	am (P-3764; A-14775) (P-13108)
570.40	am (P-3764; A-14775)
590.10	am (P-4996; A-13529)
590.20	am (P-4996; A-13529)
590.25	am (P-4996; A-13529)

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590.40 am	(P-4996; A-13529)	415.70 n	(E-13316) (P-15228)
590.50 am	(P-4996; A-13529)	525.110 am	(P-12345)
590.60 am	(P-15509/89; A-638) (P-4996; A-13529)	525.130 am	(P-12345)
		525.140 am	(P-12345)
		525.150 am	(P-18052/89; A-5114)
590.Ex.A am	(P-4996; A-13529)	525.210 am	(P-12345)
650.10 am	(P-4385; A-12430)	525.230 am	(P-12345)
650.20 am	(P-4385; A-12430)	525.250 am	(P-12345)
650.21 am	(P-4385; A-12430)	535.10 n	(P-18040/89; A-6765)
650.22 am	(P-4385; A-12430)	535.12 n	(P-18040/89; A-6765)
650.30 am	(P-4385; A-12430)	535.15 n	(P-18040/89; A-6765)
650.40 am	(P-4385; A-12430)	535.17 n	(P-18040/89; A-6765)
650.50 am	(P-4385; A-12430)	535.20 am	(P-18040/89; A-6765)
650.60 am	(P-4385; A-12430)	535.30 am	(P-18040/89; A-6765)
650.70 am	(P-4385; A-12430)	535.40 am	(P-18040/89; A-6765)
670.10 am	(P-4372; A-14787)	535.50 am	(P-18040/89; A-6765)
670.30 am	(P-4372; A-14787)	535.60 am	(P-18040/89; A-6765)
670.40 am	(P-4372; A-14787)	535.70 am	(P-18040/89; A-6765)
670.50 am	(P-4372; A-14787)	535.80 am	(P-18040/89; A-6765)
670.55 am	(P-4372; A-14787)	535.90 am	(P-18040/89; A-6765)
670.60 am	(P-4372; A-14787)	535.100 am	(P-18040/89; A-6765)
690.30 am	(P-3794; A-10816)	535.110 am	(P-18040/89; A-6765)
710.10 am	(P-15534/89; A-663)	535.120 am	(P-18040/89; A-6765)
710.20 am	(P-15534/89; A-663)	535.130 am	(P-18040/89; A-6765)
710.30 am	(P-15534/89; A-663)	535.140 am	(P-18040/89; A-6765)
710.50 am	(P-15534/89; A-663)	701.70 am	(P-9684)
715.10 am	(P-4363; A-12421)	701.270 am	(P-9684)
715.20 am	(P-4363; A-12421)	720.150 am	(P-9694)
715.30 am	(P-4363; A-12421)	1215.10 n	(P-12398)
715.40 am	(P-4363; A-12421)	1215.20 n	(P-12398)
720.10 am	(P-4355; A-12413)	1215.30 n	(P-12398)
720.20 am	(P-4355; A-12413)	1215.40 n	(P-12398)
720.40 am	(P-4355; A-12413)	1215.50 n	(P-12398)
730.20 am	(P-3743; A-11193)	1560.10 n	(P-8800)
730.30 am	(P-3743; A-11193)	1560.20 n	(P-8800)
740.10 am	(P-3802; A-11207)	1560.30 n	(P-8800)
740.20 am	(P-3802; A-11207)	1560.40 n	(P-8800)
745.10 am	(P-4351; A-14771)	1560.50 n	(P-8800)
745.20 am	(P-4351; A-14771)	1720.20 am	(P-5378; A-14800)
745.30 am	(P-4351; A-14771)	1720.25 am	(P-5378; A-14800)
745.40 am	(P-4351; A-14771)	1760.101 am	(P-13997/89; A-10027)
745.50 am	(P-4351; A-14771)	1760.102 am	(P-13997/89; A-10027)
750.10 am	(P-4985; A-13519)	1760.103 am	(P-13997/89; A-10027)
810.10 am	(P-491; A-6164)	1760.104 am	(P-13997/89; A-10027)
810.20 am	(P-491; A-6164)	1760.201 am	(P-13997/89; A-10027)
810.30 am	(P-491; A-6164)	1760.202 am	(P-13997/89; A-10027)
810.40 am	(P-491; A-6164)	1760.203 am	(P-13997/89; A-10027)
		1760.204 am	(P-13997/89; A-10027)
		1760.205 am	(P-13997/89; A-10027)
		1760.206 am	(P-13997/89; A-10027)
		1760.207 am	(P-13997/89; A-10027)

TITLE 23

1.30 am	(P-1650; A-12457)
1.240 am	(P-1650; A-12457)
1.245 am	(P-6931)
1.280 am	(P-1650; A-12457)
1.290 am	(P-1650; A-12457)
1.320 am	(P-1650; A-12457)
1.420 am	(P-1650; A-12457)
1.430 am	(P-1650; A-12457)
1.440 am	(P-1650; A-12457)
1.630 am	(P-1650; A-12457)
1.640 am	(P-1650; A-12457)

TITLE 17 (CONT'D)		TITLE 20 (CONT'D)	
1075.40 n	(P-11033; C-13366)	1075.40 n	(P-11033; C-13366)
1075.50 n	(P-11033; C-13366)	1075.60 n	(P-11033; C-13366)
1075.70 n	(P-11033; C-13366)	1075.80 n	(P-11033; C-13366)
1075.80 n	(P-11033; C-13366)	1075.90 n	(P-11033; C-13366)
1530.10 am	(P-11047)	1530.10 am	(P-11047)
1530.60 am	(P-8289)	1530.60 am	(P-8289)
1536.10 am	(P-8289)	1536.10 am	(P-8289)
1536.20 am	(P-8289)	1536.20 am	(P-8289)
1536.25 am	(P-8289)	1536.25 am	(P-8289)
1536.30 am	(P-8289)	1536.30 am	(P-8289)
1536.40 am	(P-8289)	1536.40 am	(P-8289)
1536.50 am	(P-8289)	1536.50 am	(P-8289)
1536.60 am	(P-8289)	1536.60 am	(P-8289)
1536.70 am	(P-8289)	1536.70 am	(P-8289)
1536.80 am	(P-8289)	1536.80 am	(P-8289)
1536.100 am	(P-8289)	1536.100 am	(P-8289)
1537.1 am	(P-8273)	1537.1 am	(P-8273)
1537.10 am	(P-8273)	1537.10 am	(P-8273)
1537.15 am	(P-8273)	1537.15 am	(P-8273)
1537.20 am	(P-8273)	1537.20 am	(P-8273)
1537.25 am	(P-8273)	1537.25 am	(P-8273)
1537.30 am	(P-8273)	1537.30 am	(P-8273)
1537.35 am	(P-8273)	1537.35 am	(P-8273)
1537.40 am	(P-8273)	1537.40 am	(P-8273)
1537.42 am	(P-8273)	1537.42 am	(P-8273)
1537.45 am	(P-8273)	1537.45 am	(P-8273)
1537.50 am	(P-8273)	1537.50 am	(P-8273)
1537.55 am	(P-8273)	1537.55 am	(P-8273)
1537.60 am	(P-8273)	1537.60 am	(P-8273)
1537.65 am	(P-8273)	1537.65 am	(P-8273)
1537.70 am	(P-8273)	1537.70 am	(P-8273)
1537.75 am	(P-8273)	1537.75 am	(P-8273)
1537.80 am	(P-8273)	1537.80 am	(P-8273)
1537.85 am	(P-8273)	1537.85 am	(P-8273)
1537.90 am	(P-8273)	1537.90 am	(P-8273)
1537.95 am	(P-8273)	1537.95 am	(P-8273)
1537.Ex.A am	(P-8273)	1537.Ex.A am	(P-8273)
1537.Ex.B am	(P-8273)	1537.Ex.B am	(P-8273)
1590.20 am	(P-17174/89; A-6088)	1590.20 am	(P-17174/89; A-6088)
1590.30 am	(P-17174/89; A-6088)	1590.30 am	(P-17174/89; A-6088)
1590.40 am	(P-17174/89; A-6088)	1590.40 am	(P-17174/89; A-6088)
1590.50 am	(P-17174/89; A-6088)	1590.50 am	(P-17174/89; A-6088)
1590.60 am	(P-17174/89; A-6088)	1590.60 am	(P-17174/89; A-6088)
1590.70 am	(P-17174/89; A-6088)	1590.70 am	(P-17174/89; A-6088)
1590.80 am	(P-17174/89; A-6088)	1590.80 am	(P-17174/89; A-6088)
1590.90 am	(P-17174/89; A-6088)	1590.90 am	(P-17174/89; A-6088)
1590.100 am	(P-17174/89; A-6088)	1590.100 am	(P-17174/89; A-6088)
1590.Ap.A am	(P-17174/89; A-6088)	1590.Ap.A am	(P-17174/89; A-6088)
3030.30 am	(P-478; A-6149)	3030.30 am	(P-478; A-6149)
3030.40 am	(P-478; A-6149)	3030.40 am	(P-478; A-6149)
3030.50 am	(P-478; A-6149)	3030.50 am	(P-478; A-6149)
3040.10 am	(P-442; RC-5896; A-6106)	3040.10 am	(P-442; RC-5896; A-6106)
3040.20 am	(P-442; RC-5896; A-6106)	3040.20 am	(P-442; RC-5896; A-6106)
3040.30 am	(P-442; RC-5896; A-6106)	3040.30 am	(P-442; RC-5896; A-6106)
3040.40 am	(P-442; RC-5896; A-6106)	3040.40 am	(P-442; RC-5896; A-6106)
3040.50 am	(P-442; RC-5896; A-6106)	3040.50 am	(P-442; RC-5896; A-6106)
3040.60 am	(P-442; RC-5896; A-6106)	3040.60 am	(P-442; RC-5896; A-6106)
3040.70 am	(P-442; RC-5896; A-6106)	3040.70 am	(P-442; RC-5896; A-6106)
3040.80 am	(P-442; RC-5896; A-6106)	3040.80 am	(P-442; RC-5896; A-6106)
3040.Ap.A am	(P-442; RC-5896; A-6106)	3040.Ap.A am	(P-442; RC-5896; A-6106)

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415.15 am	(E-13316) (P-15228)
415.20 am	(E-13316) (P-15228)
415.30 am	(P-15228)

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181.202	n	(P-6520; A-14392)	302.101	am	(P-14172/89; A-2899)
181.203	n	(P-6520; A-14392)	302.102	am	(P-14172/89; A-2899)
181.301	n	(P-6520; A-14392)	302.103	am	(P-14172/89; A-2899)
181.302	n	(P-6520; A-14392)	302.203	am	(P-14172/89; A-2899)
181.303	n	(P-6520; A-14392)	302.208	am	(P-14172/89; A-2899)
181.304	n	(P-6520; A-14392)	302.210	am	(P-14172/89; A-2899)
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183.Ap.A	am	(P-7561/89; A-8655)	302.304	am	(P-20273/89; A-11974)
190.Ap.A	am	(P-16285/89; A-9141)	302.601	n	(P-14172/89; O-2120; R-2960; A-2899)
211.122	am	(P-8463; P-12697)	302.603	n	(P-14172/89; O-2120; R-2960; A-2899)
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215.104	am	(P-15249/89; A-3555)	302.615	n	(P-14172/89; O-2120; R-2960; A-2899)
215.105	am	(P-16445/89; A-9173)	302.618	n	(P-14172/89; O-2120; R-2960; A-2899)
215.108	n	(P-16445/89; A-9173)	302.621	n	(P-14172/89; O-2120; R-2960; A-2899)
215.122	am	(P-16445/89; A-9173)	302.627	n	(P-14172/89; O-2120; R-2960; A-2899)
215.124	am	(P-16445/89; A-9173)	302.630	n	(P-14172/89; O-2120; R-2960; A-2899)
215.127	n	(P-16445/89; A-9173)	302.633	n	(P-14172/89; O-2120; R-2960; A-2899)
215.128	n	(P-16445/89; A-9173)	302.642	n	(P-14172/89; O-2120; R-2960; A-2899)
215.206	am	(P-16445/89; A-9173)	302.645	n	(P-14172/89; O-2120; R-2960; A-2899)
215.208	am	(P-16445/89; A-9173)	302.648	n	(P-14172/89; O-2120; R-2960; A-2899)
215.214	n	(P-12384/89; A-7596)	302.651	n	(P-14172/89; O-2120; R-2960; A-2899)
215.241	am	(P-16445/89; A-9173)	302.654	n	(P-14172/89; O-2120; R-2960; A-2899)
215.404	r	(P-16445/89; A-9173)	302.657	n	(P-14172/89; O-2120; R-2960; A-2899)
215.409	n	(P-16445/89; A-9173)	302.658	n	(P-14172/89; O-2120; R-2960; A-2899)
215.410	n	(P-16445/89; A-9173)	302.660	n	(P-14172/89; O-2120; R-2960; A-2899)
215.421	am	(P-16445/89; A-9173)	302.663	n	(P-14172/89; O-2120; R-2960; A-2899)
215.445	am	(P-16445/89; A-9173)	302.666	n	(P-14172/89; O-2120; R-2960; A-2899)
215.464	am	(P-16445/89; A-9173)	302.669	n	(P-14172/89; O-2120; R-2960; A-2899)
215.467	n	(P-16445/89; A-9173)	303.430	n	(P-17661/89; A-9460)
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215.483	am	(P-8877)	304.218	n	(P-11093)
215.484	am	(P-8877)	304.221	n	(P-11093)
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215.486	am	(P-2772; P-8877)	305.102	am	(P-20330/89; A-12538)
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215.615	n	(P-16445/89; A-9173)			
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691.202	n	(P-15164/89; A-2045)	725.321	am	(P-9754)
691.203	n	(P-15164/89; A-2045)	725.373	am	(P-9754)
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691.302	n	(P-15164/89; A-2045)	728.105	am	(P-6597; A-14470)
691.303	n	(P-15164/89; A-2045)	728.106	am	(P-6597; A-14470)
691.304	n	(P-15164/89; A-2045)	728.107	am	(P-6597; A-14470)
691.305	n	(P-15164/89; A-2045)	728.108	am	(P-6597; A-14470)
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691.306	n	(P-15164/89; A-2045)	728.133	am	(P-6597; A-14470)
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702.182	am	(P-17651/89; A-3089)	728.151	am	(P-9764)
702.183	am	(P-17651/89; A-3089)	728.152	am	(P-79; A-6232)
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702.187	am	(P-17651/89; A-3089)	730.103	am	(P-3014; A-11959)
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703.157	am	(P-125; A-6278)	730.113	am	(P-18139/89; A-3130)
703.183	am	(P-125; A-6278)	730.161	am	(P-18139/89; A-3130)
703.225	am	(P-125; A-6278)	730.162	n	(P-18139/89; A-3130)
703.240	n	(P-125; A-6278)	730.165	n	(P-18139/89; A-3130)
703.240	n	(P-125; A-6278)	730.166	n	(P-18139/89; A-3130)
703.240	n	(P-125; A-6278)	730.167	n	(P-18139/89; A-3130)
703.240	n	(P-125; A-6278)	730.168	n	(P-18139/89; A-3130)
703.240	n	(P-125; A-6278)	730.169	n	(P-18139/89; A-3130)
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704.264	n	(P-18125/89; A-3116)	730.172	n	(P-18139/89; A-3130)
705.128	am	(P-17644/89; A-3082)	730.173	n	(P-18139/89; A-3130)
705.163	am	(P-17644/89; A-3082)	730.175	n	(P-18139/89; A-3130)
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720.111	am	(P-72; A-6225) (P-17638/89; A-3075) (P-3006) (P-9706)	731.192	am	(P-4406; A-11964)
720.111	am	(P-13925)	731.193	am	(P-153; A-5797)
720.120	am	(P-13925)	731.197	am	(P-4406; A-11964)
720.122	am	(P-72; A-6225) (P-13925)	731.200	n	(P-2791; A-9454)
721.103	am	(P-6528; A-14401)	731.203	am	(P-153; A-5797)
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721.104	am	(P-6528; A-14401) (P-9729)	731.207	am	(P-153; A-5797)
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721.111	am	(P-13938)	738.103	n	(P-18110/89; A-3059)
721.124	am	(P-9729)	738.104	n	(P-18110/89; A-3059)
721.130	am	(P-9729)	738.105	n	(P-18110/89; A-3059)
721.131	am	(P-6528; A-14401) (P-9729)	738.110	n	(P-18110/89; A-3059)
721.132	am	(P-6528; A-14401)	738.110	am	(P-3823; A-11948)
721.132	am	(P-9729)	738.111	n	(P-18110/89; A-3059)
721.132	am	(P-6528; A-14401) (P-9729)	738.111	am	(P-18110/89; A-3059)
721.132	am	(P-6528; A-14401)	738.112	am	(P-18110/89; A-3059)
721.132	am	(P-6528; A-14401)	738.114	am	(P-3823; A-11948)
721.132	am	(P-6528; A-14401)	738.114	am	(P-3823; A-11948)
721.132	am	(P-6528; A-14401)	738.115	am	(P-3823; A-11948)
721.132	am	(P-6528; A-14401)	738.115	am	(P-3823; A-11948)
721.132	am	(P-6528; A-14401)	738.116	n	(P-18110/89; A-3059)
721.132	am	(P-6528; A-14401)	738.116	n	(P-18110/89; A-3059)
721.132	am	(P-6528; A-14401)	738.120	n	(P-18110/89; A-3059)
721.132	am	(P-6528; A-14401)	738.121	n	(P-18110/89; A-3059)
721.132	am	(P-6528; A-14401)	738.122	n	(P-18110/89; A-3059)
721.132	am	(P-6528; A-14401)	738.122	n	(P-18110/89; A-3059)

TITLE 35 (CONT'D)			TITLE 35 (CONT'D)		
II.H	II.D	II.E	II.D	II.E	II.F
813.501	(P-3882)	813.501	(P-3882)	813.501	(P-3882)
813.502	(P-3882)	813.502	(P-3882)	813.502	(P-3882)
813.503	(P-3882)	813.503	(P-3882)	813.503	(P-3882)
814.101	(P-3858)	858.201	(P-3858)	858.201	(P-3858)
814.102	(P-3858)	858.202	(P-3858)	858.202	(P-3858)
814.103	(P-3858)	858.401	(P-3858)	858.401	(P-3858)
814.104	(P-3858)	860.210	(P-3858)	860.210	(P-3858)
814.105	(P-3858)	861.100	(P-3858)	861.100	(P-3858)
814.106	(P-3858)	861.110	(P-3858)	861.110	(P-3858)
814.201	(P-3858)	861.120	(P-3858)	861.120	(P-3858)
814.202	(P-3858)	861.210	(P-3858)	861.210	(P-3858)
814.301	(P-3858)	870.101	(P-3858)	870.101	(P-3858)
814.302	(P-3858)	870.102	(P-3858)	870.102	(P-3858)
814.401	(P-3858)	870.202	(P-3858)	870.202	(P-3858)
814.402	(P-3858)	870.204	(P-3858)	870.204	(P-3858)
814.501	(P-3858)	870.208	(P-3858)	870.208	(P-3858)
814.502	(P-3858)	870.210	(P-3858)	870.210	(P-3858)
815.101	(P-3872)	870.211	(P-3872)	870.211	(P-3872)
815.102	(P-3872)	870.212	(P-3872)	870.212	(P-3872)
815.201	(P-3872)	870.301	(P-3872)	870.301	(P-3872)
815.202	(P-3872)	870.302	(P-3872)	870.302	(P-3872)
815.203	(P-3872)	870.305	(P-3872)	870.305	(P-3872)
815.204	(P-3872)	870.307	(P-3872)	870.307	(P-3872)
815.301	(P-3872)	870.309	(P-3872)	870.309	(P-3872)
815.302	(P-3872)	870.310	(P-3872)	870.310	(P-3872)
815.303	(P-3872)	871.101	(P-3872)	871.101	(P-3872)
815.401	(P-3872)	871.102	(P-3872)	871.102	(P-3872)
815.402	(P-3872)	871.201	(P-3872)	871.201	(P-3872)
815.501	(P-3872)	871.301	(P-3872)	871.301	(P-3872)
815.502	(P-3872)	871.303	(P-3872)	871.303	(P-3872)
815.503	(P-3872)	871.305	(P-3872)	871.305	(P-3872)
848.101	(P-7763)	871.402	(P-7763)	871.402	(P-7763)
848.102	(P-7763)	871.503	(P-7763)	871.503	(P-7763)
848.103	(P-7763)	195.100	(P-7763)	195.100	(P-7763)
848.104	(P-7763)	195.120	(P-7763)	195.120	(P-7763)
848.201	(P-7763)	195.140	(P-7763)	195.140	(P-7763)
848.202	(P-7763)	195.160	(P-7763)	195.160	(P-7763)
848.301	(P-7763)	195.180	(P-7763)	195.180	(P-7763)
848.302	(P-7763)	195.200	(P-7763)	195.200	(P-7763)
848.303	(P-7763)	356.110	(P-7763)	356.110	(P-7763)
848.304	(P-7763)	356.210	(P-7763)	356.210	(P-7763)
848.305	(P-7763)	356.300	(P-7763)	356.300	(P-7763)
848.306	(P-7763)	356.400	(P-7763)	356.400	(P-7763)
848.401	(P-7763)	395.100	(P-7763)	395.100	(P-7763)
848.402	(P-7763)	395.200	(P-7763)	395.200	(P-7763)
848.403	(P-7763)	395.300	(P-7763)	395.300	(P-7763)
848.501	(P-7763)	396.100	(P-7763)	396.100	(P-7763)
848.502	(P-7763)	396.200	(P-7763)	396.200	(P-7763)
848.503	(P-7763)	396.300	(P-7763)	396.300	(P-7763)
848.504	(P-7763)	397.100	(P-7763)	397.100	(P-7763)
848.505	(P-7763)	397.200	(P-7763)	397.200	(P-7763)
848.506	(P-7763)	397.300	(P-7763)	397.300	(P-7763)
848.601	(P-7763)	397.400	(P-7763)	397.400	(P-7763)
848.602	(P-7763)	397.500	(P-7763)	397.500	(P-7763)
848.603	(P-7763)	1075.100	(P-7763)	1075.100	(P-7763)

TITLE 47 (CONT'D)			TITLE 47 (CONT'D)		
110.91	n	(P-10985)	360.310	n	(P-1726; A-9117) (E-2094)
110.92	n	(P-10985)	360.401	n	(P-1726; A-9117) (E-2094)
110.93	n	(P-10985)	360.402	n	(P-1726; A-9117) (E-2094)
110.100	am	(P-10985)	360.501	n	(P-1726; A-9117) (E-2094)
110.105	n	(P-10985)	360.502	n	(P-1726; A-9117) (E-2094)
110.105	n	(P-10985)	360.503	n	(P-1726; A-9117) (E-2094)
110.130	am	(P-10985)	360.504	n	(P-1726; A-9117) (E-2094)
120.115	am	(P-5296; A-13970)	360.505	n	(P-1726; A-9117) (E-2094)
310.804	am	(P-13371/89; A-683)	360.506	n	(P-1726; A-9117) (E-2094)
330.101	n	(P-5653; A-14021) (E-5827)	360.507	n	(P-1726; A-9117) (E-2094)
330.101	r	(P-5651; A-14019) (E-5817)	360.601	n	(P-1726; A-9117) (E-2094)
330.102	n	(P-5653; A-14021) (E-5827)	360.602	n	(P-1726; A-9117) (E-2094)
330.102	r	(P-5651; A-14019) (E-5817)	360.603	n	(P-1726; A-9117) (E-2094)
330.103	n	(P-5653; A-14021) (E-5827)	360.604	n	(P-1726; A-9117) (E-2094)
330.103	r	(P-5651; A-14019) (E-5817)	360.605	n	(P-1726; A-9117) (E-2094)
330.104	n	(P-5653; A-14021) (E-5827)	360.606	n	(P-1726; A-9117) (E-2094)
330.104	r	(P-5651; A-14019) (E-5817)	360.701	n	(P-1726; A-9117) (E-2094)
330.201	n	(P-5653; A-14021) (E-5827)	360.801	n	(P-1726; A-9117) (E-2094)
330.201	r	(P-5651; A-14019) (E-5817)	360.802	n	(P-1726; A-9117) (E-2094)
330.202	n	(P-5653; A-14021) (E-5827)	360.803	n	(P-1726; A-9117) (E-2094)
330.202	r	(P-5651; A-14019) (E-5817)	360.804	n	(P-1726; A-9117) (E-2094)
330.203	n	(P-5653; A-14021) (E-5827)	360.901	n	(P-1726; A-9117) (E-2094)
330.203	r	(P-5651; A-14019) (E-5817)	360.902	n	(P-1726; A-9117) (E-2094)
330.204	n	(P-5653; A-14021) (E-5827)	360.903	n	(P-1726; A-9117) (E-2094)
330.204	r	(P-5651; A-14019) (E-5817)	360.904	n	(P-1726; A-9117) (E-2094)
330.205	n	(P-5653; A-14021) (E-5827)	360.905	n	(P-1726; A-9117) (E-2094)
330.205	r	(P-5651; A-14019) (E-5817)	360.906	n	(P-1726; A-9117) (E-2094)
330.206	n	(P-5653; A-14021) (E-5827)	360.1001	n	(P-1726; A-9117) (E-2094)
330.206	r	(P-5651; A-14019) (E-5817)	360.1101	n	(P-1726; A-9117) (E-2094)
330.207	n	(P-5653; A-14021) (E-5827)	360.1102	n	(P-1726; A-9117) (E-2094)
330.207	r	(P-5651; A-14019) (E-5817)	400.102	n	(P-4451) (E-4720)
330.208	n	(P-5653; A-14021) (E-5827)	400.103	n	(P-4451) (E-4720)
330.208	r	(P-5651; A-14019) (E-5817)	400.104	n	(P-4451) (E-4720)
330.209	n	(P-5653; A-14021) (E-5827)	400.105	n	(P-4451) (E-4720)
330.209	r	(P-5651; A-14019) (E-5817)	400.106	n	(P-4451) (E-4720)
330.210	n	(P-5653; A-14021) (E-5827)	400.107	n	(P-4451) (E-4720)
330.211	n	(P-5653; A-14021) (E-5827)	400.108	n	(P-4451) (E-4720)
330.212	n	(P-5653; A-14021) (E-5827)	400.109	n	(P-4451) (E-4720)
360.101	n	(P-1726; A-9117) (E-2094)	400.110	n	(P-4451) (E-4720)
360.102	n	(P-1726; A-9117) (E-2094)	400.111	n	(P-4451) (E-4720)
360.103	n	(P-1726; A-9117) (E-2094)	400.112	n	(P-4451) (E-4720)
360.104	n	(P-1726; A-9117) (E-2094)	400.113	n	(P-4451) (E-4720)
360.105	n	(P-1726; A-9117) (E-2094)	400.114	n	(P-4451) (E-4720)
360.106	n	(P-1726; A-9117) (E-2094)	400.115	n	(P-4451) (E-4720)
360.107	n	(P-1726; A-9117) (E-2094)	400.116	n	(P-4451) (E-4720)
360.108	n	(P-1726; A-9117) (E-2094)	400.117	n	(P-4451) (E-4720)
360.109	n	(P-1726; A-9117) (E-2094)	400.118	n	(P-4451) (E-4720)
360.110	n	(P-1726; A-9117) (E-2094)	410.101	n	(P-4449) (E-4712)
360.111	n	(P-1726; A-9117) (E-2094)	410.102	n	(P-4449) (E-4712)
360.112	n	(P-1726; A-9117) (E-2094)	410.103	n	(P-4449) (E-4712)
360.113	n	(P-1726; A-9117) (E-2094)	410.104	n	(P-4449) (E-4712)
360.114	n	(P-1726; A-9117) (E-2094)	410.105	n	(P-4449) (E-4712)
360.201	n	(P-1726; A-9117) (E-2094)	410.106	n	(P-4449) (E-4712)
360.202	n	(P-1726; A-9117) (E-2094)	410.107	n	(P-4449) (E-4712)
360.203	n	(P-1726; A-9117) (E-2094)	410.108	n	(P-4449) (E-4712)
360.301	n	(P-1726; A-9117) (E-2094)	410.109	n	(P-4449) (E-4712)
360.302	n	(P-1726; A-9117) (E-2094)	420.101	n	(P-4453) (E-4734)
360.303	n	(P-1726; A-9117) (E-2094)	420.102	n	(P-4453) (E-4734)
360.304	n	(P-1726; A-9117) (E-2094)	420.103	n	(P-4453) (E-4734)
360.305	n	(P-1726; A-9117) (E-2094)	420.104	n	(P-4453) (E-4734)
360.306	n	(P-1726; A-9117) (E-2094)	420.105	n	(P-4453) (E-4734)
360.307	n	(P-1726; A-9117) (E-2094)	420.106	n	(P-4453) (E-4734)
360.308	n	(P-1726; A-9117) (E-2094)	420.107	n	(P-4453) (E-4734)
360.309	n	(P-1726; A-9117) (E-2094)	420.108	n	(P-4453) (E-4734)

TITLE 77 (CONT'D)			TITLE 77 (CONT'D)		
600.250	am	(P-10035/89; A-840)	635.70	am	(P-7858)
600.510	am	(P-10035/89; A-840)	635.80	am	(P-7858)
600.900	am	(P-10035/89; A-840)	635.90	am	(P-7858)
600.910	am	(P-10035/89; A-840)	635.110	am	(P-7858)
600.910	#	(P-10035/89; A-840)	635.130	am	(P-7858)
600.920	#	(P-10035/89; A-840)	635.140	am	(P-7858)
600.920	#	(P-10035/89; A-840)	635.150	am	(P-7858)
600.920	#	(P-10035/89; A-840)	635.160	am	(P-7858)
600.930	r	(P-10035/89; A-840)	635.170	am	(P-7858)
600.930	#	(P-10035/89; A-840)	635.180	am	(P-7858)
600.1100	am	(P-10035/89; A-840)	635.190	am	(P-7858)
600.1110	am	(P-10035/89; A-840)	635.200	am	(P-7858)
600.1120	am	(P-10035/89; A-840)	635.210	am	(P-7858)
600.1130	am	(P-10035/89; A-840)	635.220	am	(P-7858)
600.1400	am	(P-10035/89; A-840)	635.230	am	(P-7858)
615.100	r	(P-10137/89; A-805)	635.240	am	(P-7858)
615.110	am	(P-10137/89; A-805)	635.250	am	(P-7858)
615.140	r	(P-10137/89; A-805)	635.260	am	(P-7858)
615.150	am	(P-10137/89; A-805)	635.270	am	(P-7858)
615.160	am	(P-10137/89; A-805)	635.280	am	(P-7858)
615.200	am	(P-10137/89; A-805)	635.290	am	(P-7858)
615.310	am	(P-10137/89; A-805)	635.300	am	(P-7858)
615.320	am	(P-10137/89; A-805)	635.310	am	(P-7858)
615.330	am	(P-10137/89; A-805)	635.320	am	(P-7858)
615.360	am	(P-10137/89; A-805)	635.330	am	(P-7858)
615.370	am	(P-10137/89; A-805)	635.340	am	(P-7858)
615.510	am	(P-10137/89; A-805)	635.350	am	(P-7858)
615.520	am	(P-10137/89; A-805)	635.360	am	(P-7858)
615.530	am	(P-10137/89; A-805)	635.370	am	(P-7858)
615.540	am	(P-10137/89; A-805)	635.380	am	(P-7858)
630.110	am	(P-10060/89; A-11219)	635.390	am	(P-10060/89; A-11219)
630.210	am	(P-10060/89; A-11219)	635.400	am	(P-10060/89; A-11219)
630.25	n	(P-10060/89; A-11219)	635.410	am	(P-10060/89; A-11219)
630.30	am	(P-10060/89; A-11219)	635.420	am	(P-10060/89; A-11219)
630.40	am	(P-10060/89; A-11219)	635.430	am	(P-10060/89; A-11219)
630.50	am	(P-10060/89; A-11219)	635.440	am	(P-10060/89; A-11219)
630.60	am	(P-10060/89; A-11219)	635.450	am	(P-10060/89; A-11219)
630.70	am	(P-10060/89; A-11219)	635.460	am	(P-10060/89; A-11219)
630.80	am	(P-10060/89; A-11219)	635.470	am	(P-10060/89; A-11219)
630.90	am	(P-10060/89; A-11219)	635.480	am	(P-10060/89; A-11219)
630.100	am	(P-10060/89; A-11219)	635.490	am	(P-10060/89; A-11219)
630.110	am	(P-10060/89; A-11219)	635.500	am	(P-10060/89; A-11219)
630.120	am	(P-10060/89; A-11219)	635.510	am	(P-10060/89; A-11219)
630.130	am	(P-10060/89; A-11219)	635.520	am	(P-10060/89; A-11219)
630.140	am	(P-10060/89; A-11219)	635.530	am	(P-10060/89; A-11219)
630.150	am	(P-10060/89; A-11219)	635.540	am	(P-10060/89; A-11219)
630.160	am	(P-10060/89; A-11219)	635.550	am	(P-10060/89; A-11219)
630.170	am	(P-10060/89; A-11219)	635.560	am	(P-10060/89; A-11219)
630.180	am	(P-10060/89; A-11219)	635.570	am	(P-10060/89; A-11219)
630.190	am	(P-10060/89; A-11219)	635.580	am	(P-10060/89; A-11219)
630.200	am	(P-10060/89; A-11219)	635.590	am	(P-10060/89; A-11219)
630.210	n	(P-10060/89; A-11219)	635.600	am	(P-10060/89; A-11219)
630.220	n	(P-10060/89; A-11219)	635.610	am	(P-10060/89; A-11219)
630.230	n	(P-10060/89; A-11219)	635.620	am	(P-10060/89; A-11219)
630.240	n	(P-10060/89; A-11219)	635.630	am	(P-10060/89; A-11219)
630.250	n	(P-10060/89; A-11219)	635.640	am	(P-10060/89; A-11219)
630.260	am	(P-19185/89; A-10447)	635.650	am	(P-10060/89; A-11219)
635.20	am	(P-19185/89; A-10447)	635.660	am	(P-10060/89; A-11219)
635.30	am	(P-19185/89; A-10447)	635.670	am	(P-10060/89; A-11219)
635.35	am	(P-19185/89; A-10447)	635.680	am	(P-10060/89; A-11219)
635.40	am	(P-19185/89; A-10447)	635.690	am	(P-10060/89; A-11219)
635.50	am	(P-19185/89; A-10447)	635.700	am	(P-10060/89; A-11219)
635.60	am	(P-19185/89; A-10447)	635.710	am	(P-10060/89; A-11219)
635.70	am	(P-19185/89; A-10447)	635.720	am	(P-10060/89; A-11219)
635.80	am	(P-19185/89; A-10447)	635.730	am	(P-10060/89; A-11219)
635.90	am	(P-19185/89; A-10447)	635.740	am	(P-10060/89; A-11219)
636.00	am	(P-19185/89; A-10447)	635.750	am	(P-10060/89; A-11219)
636.10	am	(P-19185/89; A-10447)	635.760	am	(P-10060/89; A-11219)
636.20	am	(P-19185/89; A-10447)	635.770	am	(P-10060/89; A-11219)
636.30	am	(P-19185/89; A-10447)	635.780	am	(P-10060/89; A-11219)
636.40	am	(P-19185/89; A-10447)	635.790	am	(P-10060/89; A-11219)
636.50	am	(P-19185/89; A-10447)	635.800	am	(P-10060/89; A-11219)
636.60	am	(P-19185/89; A-10447)	635.810	am	(P-10060/89; A-11219)
636.70	am	(P-19185/89; A-10447)	635.820	am	(P-10060/89; A-11219)
636.80	am	(P-19185/89; A-10447)	635.830	am	(P-10060/89; A-11219)
636.90	am	(P-19185/89; A-10447)	635.840	am	(P-10060/89; A-11219)
637.00	am	(P-19185/89; A-10447)	635.850	am	(P-10060/89; A-11219)
637.10	am	(P-19185/89; A-10447)	635.860	am	(P-10060/89; A-11219)
637.20	am	(P-19185/89; A-10447)	635.870	am	(P-10060/89; A-11219)
637.30	am	(P-19185/89; A-10447)	635.880	am	(P-10060/89; A-11219)
637.40	am	(P-19185/89; A-10447)	635.890	am	(P-10060/89; A-11219)
637.50	am	(P-19185/89; A-10447)	635.900	am	(P-10060/89; A-11219)
637.60	am	(P-19185/89; A-10447)	635.910	am	(P-10060/89; A-11219)
637.70	am	(P-19185/89; A-10447)	635.920	am	(P-10060/89; A-11219)
637.80	am	(P-19185/89; A-10447)	635.930	am	(P-10060/89; A-11219)
637.90	am	(P-19185/89; A-10447)	635.940	am	(P-10060/89; A-11219)
638.00	am	(P-19185/89; A-10447)	635.950	am	(P-10060/89; A-11219)
638.10	am	(P-19185/89; A-10447)	635.960	am	(P-10060/89; A-11219)
638.20	am	(P-19185/89; A-10447)	635.970	am	(P-10060/89; A-11219)
638.30	am	(P-19185/89; A-10447)	635.980	am	(P-10060/89; A-11219)
638.40	am	(P-19185/89; A-10447)	635.990	am	(P-10060/89; A-11219)
638.50	am	(P-19185/89; A-10447)	636.000	am	(P-10060/89; A-11219)
638.60	am	(P-19185/89; A-10447)	636.010	am	(P-10060/89; A-11219)
638.70	am	(P-19185/89; A-10447)	636.020	am	(P-10060/89; A-11219)
638.80	am	(P-19185/89; A-10447)	636.030	am	(P-10060/89; A-11219)
638.90	am	(P-19185/89; A-10447)	636.040	am	(P-10060/89; A-11219)
639.00	am	(P-19185/89; A-10447)	636.050	am	(P-10060/89; A-11219)
639.10	am	(P-19185/89; A-10447)	636.060	am	(P-10060/89; A-11219)
639.20	am	(P-19185/89; A-10447)	636.070	am	(P-10060/89; A-11219)
639.30	am	(P-19185/89; A-10447)	636.080	am	(P-10060/89; A-11219)
639.40	am	(P-19185/89; A-10447)	636.090	am	(P-10060/89; A-11219)
639.50	am	(P-19185/89; A-10447)	636.100	am	(P-10060/89; A-11219)
639.60	am	(P-19185/89; A-10447)	636.110	am	(P-10060/89; A-11219)
639.70	am	(P-19185/89; A-10447)	636.120	am	(P-10060/89; A-11219)
639.80	am	(P-19185/89; A-10447)	636.130	am	(P-10060/89; A-11219)
639.90	am	(P-19185/89; A-10447)	636.140	am	(P-10060/89; A-11219)
640.00	am	(P-19185/89; A-10447)	636.150	am	(P-10060/89; A-11219)
640.10	am	(P-19185/89; A-10447)	636.160	am	(P-10060/89; A-11219)
640.20	am	(P-19185/89; A-10447)	636.170	am	(P-10060/89; A-11219)
640.30	am	(P-19185/89; A-10447)	636.180	am	(P-10060/89; A-11219)
640.40	am	(P-19185/89; A-10447)	636.190	am	(P-10060/89; A-11219)
640.50	am	(P-19185/89; A-10447)	636.200	am	(P-10060/89; A-11219)
640.60	am	(P-19185/89; A-10447)	636.210	am	(P-10060/89; A-11219)
640.70	am	(P-19185/89; A-10447)	636.220	am	(P-10060/89; A-11219)
640.80	am	(P-19185/89; A-10447)	636.230	am	(P-10060/89; A-11219)
640.90	am	(P-19185/89; A-10447)	636.240	am	(P-10060/89; A-11219)
641.00	am	(P-19185/89; A-10447)	636.250	am	(P-10060/89; A-11219)
641.10	am	(P-19185/89; A-10447)	636.260	am	(P-10060/89; A-11219)
641.20	am	(P-19185/89; A-10447)	636.270	am	(P-10060/89; A-11219)
641.30	am	(P-19185/89; A-10447)	636.280	am	(P-10060/89; A-11219)
641.40	am	(P-19185/89; A-10447)	636.290	am	(P-10060/89; A-11219)
641.50	am	(P-19185/89; A-10447)	636.300	am	(P-10060/89; A-11219)
641.60	am	(P-19185/89; A-10447)	636.310	am	(P-10060/89; A-11219)
641.70	am	(P-19185/89; A-10447)	636.320	am	(P-10060/89; A-11219)
641.80	am	(P-19185/89; A-10447)	636.330	am	(P-10060/89; A-11219)
641.90	am	(P-19185/89; A-10447)	636.340	am	(P-10060/89; A-11219)
642.00	am	(P-19185/89; A-10447)	636.350	am	(P-10060/89; A-11219)
642.10	am	(P-19185/89; A-10447)	636.360	am	(P-10060/89; A-11219)
642.20	am	(P-19185/89; A-10447)	636.370	am	(P-10060/89; A-11219)
642.30	am	(P-19185/89; A-10447)	636.380	am	(P-10060/89; A-11219)
642.40	am	(P-19185/89; A-10447)	636.390	am	(P-10060/89; A-11219)
642.50	am	(P-19185/89; A-10447)	636.400	am	(P-10060/89; A-11219)
642.60	am	(P-19185/89; A-10447)	636.410	am	(P-10060/89; A-11219)
642.70	am	(P-19185/89; A-10447)	636.420	am	(P-10060/89; A-11219)
642.80	am	(P-19185/89; A-10447)	636.430	am	(P-10060/89; A-11219)
642.90	am	(P-19185/89; A-10447)	636.440	am	(P-10060/89; A-11219)
643.00	am	(P-19185/89; A-10447)	636.450	am	(P-10060/89; A-11219)
643.10	am	(P-19185/89; A-10447)	636.460	am	(P-10060/89; A-11219)
643.20	am	(P-19185/89; A-10447)	636.470	am	(P-10060/89; A-11219)
643.30	am	(P-19185/89; A-10447)	636.480	am	(P-10060/89; A-11219)
643.40	am	(P-19185/89; A-10447)	636.490	am	(P-10060/89; A-11219)
643.50	am	(P-19185/89; A-10447)	636.500	am	(P-10060/89; A-11219)
643.60	am	(P-19185/89; A-10447)	636.510	am	(P-10060/89; A-11219)
643.70	am	(P-19185/89; A-10447)	636.520	am	(P-10060/89; A-11219)
643.80	am	(P-19185/89; A-10447)	636.530	am	(P-10060/89; A-11219)
643.90	am	(P-19185/89; A-10447)	636.540	am	(P-10060/89; A-11219)
644.00	am	(P-19185/89; A-10447)	636.550	am	(P-10060/89; A-11219)
644.10	am	(P-19185/89; A-10447)	636.560	am	(P-10060/89; A-11219)
644.20	am	(P-19185/89; A-10447)	636.570	am	(P-10060/89; A-11219)
644.30	am	(P-19185/89; A-10447)	636.580	am	(P-10

TITLE 83 (CONT'D)		TITLE 86	
285.160 am	(P-5229/89; A-6000)	100.3250 am	(P-18188/89; A-6810)
285.170 am	(P-5229/89; A-6000)	100.7550 am	(P-17312/89; A-4558)
285.210 am	(P-5229/89; A-6000)	100.7560 am	(P-17312/89; A-4558)
285.310 am	(P-5229/89; A-6000)	100.7570 am	(P-17312/89; A-4558)
285.410 am	(P-5229/89; A-6000)	100.7580 am	(P-17312/89; A-4558)
285.420 am	(P-5229/89; A-6000)	100.7590 am	(P-17312/89; A-4558)
285.425 am	(P-5229/89; A-6000)	100.7600 am	(P-17312/89; A-4558)
285.5000 am	(P-5229/89; A-6000)	100.7610 am	(P-17312/89; A-4558)
285.5005 am	(P-5229/89; A-6000)	100.7620 am	(P-17312/89; A-4558)
285.5010 am	(P-5229/89; A-6000)	100.7630 am	(P-17312/89; A-4558)
285.5015 am	(P-5229/89; A-6000)	100.7640 am	(P-17312/89; A-4558)
285.5020 am	(P-5229/89; A-6000)	100.7650 am	(P-17312/89; A-4558)
285.5025 am	(P-5229/89; A-6000)	100.7700 am	(P-17312/89; A-4558)
285.5030 am	(P-5229/89; A-6000)	100.7750 am	(P-17312/89; A-4558)
285.5035 am	(P-5229/89; A-6000)	100.7800 am	(P-17312/89; A-4558)
285.5040 am	(P-5229/89; A-6000)	100.9060 am	(P-19347/89; A-10082)
285.5045 am	(P-5229/89; A-6000)	100.9070 am	(P-19347/89; A-10082)
285.5050 am	(P-5229/89; A-6000)	100.9110 am	(P-19347/89; A-10082)
285.5055 am	(P-5229/89; A-6000)	100.9130 am	(P-19347/89; A-10082)
285.5060 am	(P-5229/89; A-6000)	100.9140 am	(P-19347/89; A-10082)
285.5065 am	(P-5229/89; A-6000)	110.160 am	(P-7090)
285.5070 am	(P-5229/89; A-6000)	130.310 am	(P-8391/89; A-872)
285.5075 am	(P-5229/89; A-6000)	130.330 am	(P-22097/89; O-20410/89;
285.5080 am	(P-5229/89; A-6000)		M-411; A-241)
285.5085 am	(P-5229/89; A-6000)	130.1940 am	(P-7106; A-15463)
285.5090 am	(P-5229/89; A-6000)	130.1965 am	(P-7106; A-15463)
285.5095 am	(P-5229/89; A-6000)	130.2000 am	(P-22097/89; O-20410/89;
285.5100 am	(P-5229/89; A-6000)		M-411; A-241)
285.5105 am	(P-5229/89; A-6000)	130.2075 am	(P-7106; A-15463)
285.5110 am	(P-5229/89; A-6000)	140.101 am	(P-10179/89; A-262)
285.5115 am	(P-5229/89; A-6000)	140.105 am	(P-10179/89; A-262)
285.5120 am	(P-5229/89; A-6000)	140.110 am	(P-10179/89; A-262)
285.5125 am	(P-5229/89; A-6000)	140.115 am	(P-10179/89; A-262)
285.5130 am	(P-5229/89; A-6000)	140.120 am	(P-10179/89; A-262)
285.5135 am	(P-5229/89; A-6000)	140.125 am	(P-10179/89; A-262)

TITLE 83 (CONT'D)		TITLE 86	
285.4000 n	(P-5229/89; A-6000)	100.3250 am	(P-18188/89; A-6810)
285.4001 n	(P-5229/89; A-6000)	100.7550 am	(P-17312/89; A-4558)
285.4005 n	(P-5229/89; A-6000)	100.7560 am	(P-17312/89; A-4558)
285.4010 n	(P-5229/89; A-6000)	100.7570 am	(P-17312/89; A-4558)
285.4015 n	(P-5229/89; A-6000)	100.7580 am	(P-17312/89; A-4558)
285.4020 n	(P-5229/89; A-6000)	100.7590 am	(P-17312/89; A-4558)
285.4025 n	(P-5229/89; A-6000)	100.7600 am	(P-17312/89; A-4558)
285.5000 n	(P-5229/89; A-6000)	100.7610 am	(P-17312/89; A-4558)
285.5005 n	(P-5229/89; A-6000)	100.7620 am	(P-17312/89; A-4558)
285.5010 n	(P-5229/89; A-6000)	100.7630 am	(P-17312/89; A-4558)
285.5015 n	(P-5229/89; A-6000)	100.7640 am	(P-17312/89; A-4558)
285.5020 n	(P-5229/89; A-6000)	100.7650 am	(P-17312/89; A-4558)
285.5025 n	(P-5229/89; A-6000)	100.7700 am	(P-17312/89; A-4558)
285.5030 n	(P-5229/89; A-6000)	100.7750 am	(P-17312/89; A-4558)
285.5035 n	(P-5229/89; A-6000)	100.7800 am	(P-17312/89; A-4558)
285.5040 n	(P-5229/89; A-6000)	100.9060 am	(P-19347/89; A-10082)
285.5045 n	(P-5229/89; A-6000)	100.9070 am	(P-19347/89; A-10082)
285.5050 n	(P-5229/89; A-6000)	100.9110 am	(P-19347/89; A-10082)
285.5055 n	(P-5229/89; A-6000)	100.9130 am	(P-19347/89; A-10082)
285.5060 n	(P-5229/89; A-6000)	100.9140 am	(P-19347/89; A-10082)
285.5065 n	(P-5229/89; A-6000)	110.160 am	(P-7090)
285.5070 n	(P-5229/89; A-6000)	130.310 am	(P-8391/89; A-872)
285.5075 n	(P-5229/89; A-6000)	130.330 am	(P-22097/89; O-20410/89;
285.5080 n	(P-5229/89; A-6000)		M-411; A-241)
285.5085 n	(P-5229/89; A-6000)	130.1940 am	(P-7106; A-15463)
285.5090 n	(P-5229/89; A-6000)	130.1965 am	(P-7106; A-15463)
285.5095 n	(P-5229/89; A-6000)	130.2000 am	(P-22097/89; O-20410/89;
285.5100 n	(P-5229/89; A-6000)		M-411; A-241)
285.5105 n	(P-5229/89; A-6000)	130.2075 am	(P-7106; A-15463)
285.5110 n	(P-5229/89; A-6000)	140.101 am	(P-10179/89; A-262)
285.5115 n	(P-5229/89; A-6000)	140.105 am	(P-10179/89; A-262)
285.5120 n	(P-5229/89; A-6000)	140.110 am	(P-10179/89; A-262)
285.5125 n	(P-5229/89; A-6000)	140.115 am	(P-10179/89; A-262)
285.5130 n	(P-5229/89; A-6000)	140.120 am	(P-10179/89; A-262)
285.5135 n	(P-5229/89; A-6000)	140.125 am	(P-10179/89; A-262)

[illegible]

TITLE_89	(CONT'D)		n	
114.353	am	(P-14764/89; A-746)	120.379	(P-19157/89; A-6372)
114.402	am	(P-5385; A-13777)	120.384	(P-15582/89; A-4233)
114.430	am	P-5945; O-13008; R-14218; A-14162)	120.385	(P-19157/89; A-6372)
			120.386	(P-17229/89; A-4233) (P-5724; A-13227) (E-5839)
114.450	n	(P-5385; A-13777)	120.391	(P-5724; A-13227) (E-5839)
114.452	n	(P-5385; A-13777)	121.00	(P-9317)
114.454	n	(P-5385; A-13777)	121.10	(P-13503/89; A-729)
114.456	n	(P-5385; A-13777)	121.19	(P-7006)
114.458	n	(P-5385; A-13777)	121.22	(P-7006; A-13202)
114.460	n	(P-5385; A-13777)	121.23	(P-13503/89; A-729)
114.462	n	(P-5385; A-13777)	121.27	(P-13503/89; A-729)
114.464	n	(P-5385; A-13777)	121.31	(P-13503/89; A-729)
114.466	n	(P-5385; A-13777)	121.50	(P-14756/89; A-729)
114.500	n	(P-5385; A-13777)	121.60	(PP-15158)
114.502	n	(P-5385)	121.61	(P-5935; A-13202) (PP-15158)
114.504	n	(P-5385; A-13777)	121.63	(P-9317) (PP-15158)
114.506	n	(P-5385; A-13777)	121.64	(PP-15158)
114.508	n	(P-5385; A-13777)	121.70	(P-13503/89; A-729)
114.510	n	(P-5385; A-13777)	121.72	(P-13503/89; A-729)
114.512	n	(P-5385; A-13777)	121.92	(P-548; A-6349)
114.514	n	(P-5385; A-13777)	130.200	R-1564; O-12946; RC-12948
114.516	n	(P-5385; A-13777)		R-14606; A-14537
114.518	n	(P-5385; A-13777)	130.321	(P-4049; A-13772)
115.10	am	(P-14790/89; A-773)	140.7	(P-5726; A-13262) (E-5865)
115.30	am	(P-2476; A-10438)	140.24	(P-5417; A-14826)
116.510	am	(P-10616)	140.400	(P-1737; A-10062)
116.520	am	(P-10616)	140.413	(P-4860)
117.20	am	(P-17241/89; A-9488)	140.420	(P-1570; A-10409)
117.50	am	(P-14008/89; A-780)	140.421	(P-1570; A-10409)
117.51	am	(P-14008/89; A-780)	140.428	(P-14265/89; A-4543)
117.53	am	(P-14008/89; A-780)	140.429	(P-14265/89; A-4543)
118.300	n	(P-2473; A-10442)	140.435	(P-1737; A-10062)
118.300	#	(P-2473; A-10442)	140.436	(P-1737; A-10062)
118.400	#	(P-2473; A-10442)	140.461	(E-5575) (P-5726)
120.10	am	(P-15582/89; A-4233)	140.462	(E-5575) (P-5726)
120.11	am	(P-5724; A-13227) (E-5839)	140.463	(E-5575) (P-5726)
120.11	am	(P-5724; A-13227) (E-5839)	140.463	(E-5575) (P-5726)
120.20	am	(P-14778/89; A-760)	140.471	(P-8929)
		(P-19157/89; A-6372)	140.472	(P-8929)
120.30	am	(P-14778/89; A-760)	140.473	(P-8929)
120.31	am	(P-5724; A-13227) (E-5839)	140.475	(P-15281/89; A-15366)
120.60	am	(P-15582/89; A-4233) (P-5724; A-13227) (E-5839)	140.475	(P-15281/89; A-15366)
		A-13227) (E-5839)	140.476	(P-15281/89; A-15366)
120.61	am	(P-15582/89; A-4233) (P-7821; A-14814) (P19157/89; A-6372)	140.478	(P-15281/89; A-15366)
			140.479	(P-15281/89; A-15366)
120.62	am	(P-15582/89; A-4233)	140.480	(P-15281/89; A-15366)
120.63	am	(P-15582/89; A-4233)	140.481	(P-15281/89; A-15366)
120.64	am	(P-5724; A-13227) (E-5839)	140.485	(P-14317) (E-14570)
120.70	am	(P-538; A-7637)	140.486	(P-14317) (E-14570)
120.72	am	(P-538; A-7637)	140.487	(P-14317) (E-14570)
120.74	am	(P-558; A-7637) (E-1494)	140.488	(P-14317) (E-14570)
120.76	am	(P-558; A-7637)	140.490	(P-11157/89; A-190)
120.76	am	(P-558; A-7637)	140.491	(P-11157/89; A-190)
120.208	am	(P-2831; O-13011; R-13363; A-13227)	140.492	(P-11157/89; A

TITLE 89 - CONT'D					
410.380	n	(P-439; A-9407) (E-999)	650.40	r	(P-6725)
650.40	n	(P-4303)	650.40	r	(P-6683)
431.2	am	(P-4303)	650.50	r	(P-6725)
431.3	am	(P-4303)	650.50	n	(P-6683)
431.5	am	(P-4303)	650.60	r	(P-6725)
505.5	am	(P-12718)	650.60	n	(P-6683)
505.10	am	(P-12718)	650.70	r	(P-6725)
505.20	am	(P-12718)	650.70	n	(P-6683)
505.40	am	(P-12718)	650.80	r	(P-6725)
505.50	am	(P-12718)	650.80	n	(P-6683)
505.70	am	(P-12718)	650.90	r	(P-6725)
505.80	am	(P-12718)	650.90	n	(P-6683)
515.400	n	(P-9370)	650.100	r	(P-6725)
515.500	n	(P-9370)	650.100	n	(P-6683)
527.10	am	(P-8095)	650.100	n	(P-6683)
527.100	am	(P-8095)	650.110	n	(P-6683)
527.200	r	(P-8095)	650.120	n	(P-6683)
527.300	r	(P-8095)	650.130	n	(P-6683)
530.10	am	(P-11676)	650.140	n	(P-6683)
530.110	am	(P-11676)	650.150	n	(P-6683)
530.130	am	(P-11676)	650.160	n	(P-6683)
530.140	am	(P-11676)	650.200	r	(P-6725)
530.200	am	(P-11676)	650.500	r	(P-6725)
530.230	am	(P-11676)	650.600	r	(P-6725)
530.240	am	(P-11676)	650.700	r	(P-6725)
530.250	n	(P-11676)	650.1000	r	(P-6725)
540.40	n	(P-16927/89; A-5808)	650.Ap. B	r	(P-6725)
542.30	am	(P-9392)	675.100	am	(P-14319/89; A-3222)
552.60	am	(P-9392)	675.300	am	(P-14319/89; A-3222)
552.90	am	(P-9392)	685.500	am	(P-8982)
562.30	am	(P-14338/89; A-1466) (P-9379)	685.600	am	(P-8982)
567.20	am	(P-12731)	687.100	am	(P-8560)
567.30	am	(P-12731)	690.100	am	(P-9397)
572.60	am	(P-5969)	695.300	am	(P-12252)
572.90	am	(P-5969)	695.400	am	(P-12252)
587.50	am	(P-16719/89; A-6785)	700.200	am	(P-14331/89; O-20407/89;
587.70	r	(P-16719/89; A-6785)			R-2968; A-4900) (P-8103;
587.100	n	(P-16719/89; A-6785)	700.300	am	K-9624)
587.105	n	(P-11736)			R-14331/89; O-20407/89;
587.120	n	(P-11736)			R-2968; A-4900)
587.600	am	(P-16719/89; A-6785)	712.100	am	(P-11702)
592.30	am	(P-14338/89; A-1473)	712.200	am	(P-11702)
592.50	am	(P-14338/89; A-1473)	712.300	am	(P-11702)
	am	(P-14338/89; A-1473)	712.400	am	(P-11702)
	am	(P-12257)	712.1000	am	(P-11702)
592.55	n	(P-14338/89; A-1473)	712.Ap.A	am	(P-11702)
592.60	am	(P-14338/89; A-1473)	714.110	am	(P-12947/89; A-3652)
592.65	n	(P-14338/89; A-1473)	714.130	am	(P-12947/89; A-3652)
592.75	n	(P-14338/89; A-1473)	714.316	am	(P-12947/89; A-3652)
592.75	am	(P-12257)	714.320	am	(P-12947/89; A-3652)
592.80	n	(P-12257)	716.100	n	(P-9994)
592.85	n	(P-12257)	716.200	n	(P-9994)
602.20	am	(P-14797/89; A-2598) (P-5974)	716.300	n	(P-9994)
607.20	am	(P-7087)	716.400	n	(P-9994)
617.20	am	(P-9385)	716.500	n	(P-9994)
617.50	am	(P-9385)	716.600	n	(P-9994)
617.55	am	(P-9385)	730.400	am	(P-12228)
617.60	am	(P-9385)	765.60	am	(P-12224)
650.1	r	(P-6725)	795.100	am	(P-3407)
650.10	r	(P-6725)	795.110	am	(P-3407)
650.10	n	(P-6683)	810.10	am	(P-13739/89; A-3661)
650.20	r	(P-6725)	830.50	am	(P-12234)
650.20	n	(P-6683)	843.10	am	(P-12212)
650.30	r	(P-6725)	843.20	am	(P-12212)
650.30	n	(P-6683)	843.30	am	(P-12212)

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